

November 11, 2014

Mr. Christopher Grundler
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Mr. Grundler:

The undersigned agricultural, conservation, environmental, public health, alternative fuel and bioenergy value chain partners are writing to endorse Volkswagen of America's recent request for EPA to issue the enclosed Proposed Guidance Letter concerning the E85 weighting factor ("F factor") for model year 2016-2025 dual fuel vehicles. This guidance is critical to incentivize the continued production of flex fuel vehicles (FFVs) and to support the further advancement and deployment of biofuels into the nation's liquid transportation fuel pool; fuels which are essential to reducing greenhouse gas (GHG) emissions and enhancing air quality.

Automobile manufacturers offer a diverse portfolio of vehicle technologies that operate on alternative transportation fuels. A diverse portfolio of vehicle technologies creates customer value by enabling consumers to choose the best package that fits their needs. Fuel choice among gasoline, diesel, ethanol, electricity, and natural gas is one important option considered by a consumer. Providing enhanced incentives for FFVs would create parity with other alternative fuel vehicles and level the playing field for the sale of FFVs. It is therefore crucial that EPA provide the regulatory framework that encourages the continual introduction and expansion of FFVs as part of the overall advanced fuel vehicle technologies portfolio. FFVs will support the consumption of alternative transportation fuels in the marketplace and provide immediate GHG benefits. Without additional regulatory incentives to manufacture FFVs, automobile manufacturers may focus on other alternative vehicle technologies as a means to comply with the challenging 2017-2025 GHG and CAFE standards, resulting in fewer FFVs in the marketplace.

Furthermore, continuing to incentivize the production of FFVs helps facilitate successful implementation of the Renewable Fuel Standard (RFS) program. Increased use of E85 and midlevel blends in FFVs offers a readily available pathway for regulated entities to help meet the goals of the RFS.

Today, over 17 million FFVs operate on American roadways.ⁱ The use of E85 and midlevel ethanol blends in FFVs represents the most cost-effective and efficient way to help meet the ambitious new federal standards for reducing petroleum use and tailpipe emissions. Ethanol and other advanced biofuels facilitate CO₂ emission reductions both within the vehicle, and, more importantly, throughout their production life cycle. But for these benefits to be realized, FFVs must continue to be built. Without the F factor requested by Volkswagen of America, the future of FFVs is at great risk.

While there are multiple economic, national security and environmental reasons for continuing to provide meaningful federal incentives to help facilitate the continued production of FFVs, one of the most compelling is the GHG emission reduction benefits they produce when vehicles are

fueled with biofuels. Recent GREET analyses estimate that corn ethanol life-cycle greenhouse gas emissions are 19-48% (mean=34%) lower than conventional gasoline.ⁱⁱ At the current 10% ethanol-gasoline blend level the 34% carbon intensity (CI) reduction per gallon results in greenhouse gas savings from corn ethanol alone of approximately 35 million metric tonnes in 2012 or 2% of transportation related emissions.ⁱⁱⁱ

In addition the latest version of GREET shows a 100% reduction in GHG emissions for forest residue to ethanol.^{iv} Forest residue collection is part of sustainable forest management for wildfire protection and thinning of commercial forests. Thus the use of this feedstock results in no indirect land use and promotes the growth of forest material with increased CO₂ sequestration.

Going forward, research performed by the Life Cycle Associates (LCA) has shown that emerging co-products such as corn stover used as animal feed and cellulosic ethanol from corn stover and corn kernel fiber will further reduce the CI of corn ethanol. Treating corn stover as a co-product to corn production and assuming blending requirements set by the Renewable Fuel Standard for corn and cellulosic ethanol, LCA has shown that the combined CI of corn-based biofuels will approach 39 gCO₂e/MJ by 2022.^v This is a 60 percent reduction from average U.S. petroleum transportation fuels. For comparison purposes, advanced biofuels require a 50% reduction in CI from the EPA Petroleum Baseline and cellulosic ethanol requires a 60% reduction in order to obtain the respective designation.

We urge EPA to issue the F factor guidance letter proposed by Volkswagen of America. Doing so will allow for expanded use of lower carbon intensive biofuels and will represent an important and helpful first step towards resolving the lack of parity in federal incentives for FFVs and other alternative-fueled vehicles.

Thank you for considering our request.

Respectfully submitted,

25x'25 Alliance
Advanced Biofuels USA
Agricultural Retailers Association
American Coalition for Ethanol
American Council on Renewable Energy
American Farm Bureau Federation
American Seed Trade Association
Association of Equipment Manufacturers
Chicago Area Clean Cities
Clean Fuels Development Coalition
Clean Fuels Foundation
Clean Fuels Ohio
CoBank
Colorado Corn
CropLife America
East Tennessee Clean Fuels Coalition

Eastern Pennsylvania Alliance for Clean
Transportation
Environment and Energy Study Institute
Ethanol Across America
FlexFuel Awareness Campaign
Genera Energy
Genesee Region Clean Communities, Inc.
Greater Indiana Clean Cities Coalition
ICM, Inc
Illinois Corn Growers Association
Illinois Renewable Fuels Association
Iowa Corn Growers Association
Iowa Renewable Fuels Association
Kansas Corn Growers Association
Kentucky Corn Growers
Las Vegas Regional Clean Cities Coalition

Maryland Grain Producers Association
Minnesota Clean Cities
Minnesota Corn Growers Association
Missouri Corn Growers Association
National Association of Conservation
Districts
National Corn Growers Association
National Farmers Union
Natural Resource Solutions
NC Clean Energy Technology Center
Nebraska Clean Cities Coalition
Nebraska Corn Board
Nebraska Ethanol Board
Nebraska Ethanol Industry Coalition

Nebraska Farmers Union
North Dakota Clean Cities
Northeast Ohio Clean Transportation
Coalition
Ohio Corn & Wheat Growers Association
Renew the Earth
Sapp Brothers Petroleum
Schmitt Industries
South Carolina Clean Energy Business
Alliance
Transportation Fuels Consulting
Urban Air Initiative
Virginia Clean Cities

cc: EPA Administrator Gina McCarthy

Enclosures

- October 7, 2014 Volkswagen of America letter to EPA
- Volkswagen of America's proposed F factor guidance letter

ⁱ According to the Department of Energy (2014): "...there are more than 17.4 million FFVs on U.S. roads today."
(http://www.afdc.energy.gov/vehicles/flexible_fuel.html)

ⁱⁱ Wang, M., *et al* (2012) Well-to-wheels energy use and greenhouse gas emissions of ethanol from corn, sugarcane and cellulosic biomass for US use. *Environ. Res. Lett.* 7 045905

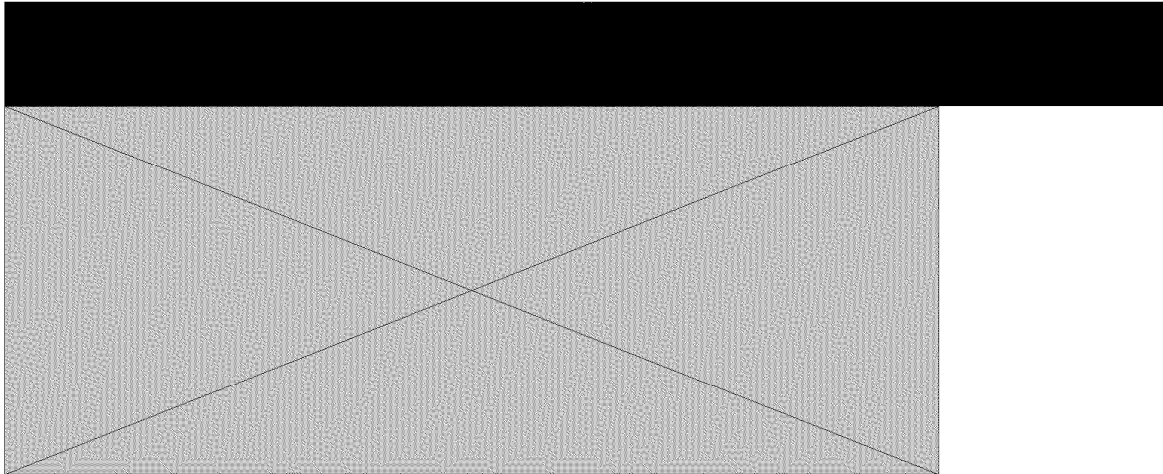
ⁱⁱⁱ EIA reports 2012 gasoline consumption at 134 billion gallons and EPA reports 2012 total transportation related emissions at 1,827 million metric tons (<http://www.epa.gov/climatechange/ghgemissions/sources.html>)

^{iv} Stefan Unnasch, Life Cycle Associates, analysis performed with GREET V. 2014.

^v Boland, S. and Unnasch, S. (2014) Carbon Intensity of Marginal Petroleum and Corn Ethanol Fuels. Life Cycle Associates Report LCA.6075.83.2014, Prepared for Renewable Fuels Association.
(http://ethanolrfa.org/page/-/rfa-association-site/studies/LCA_Marginal_GHG_Emissions_2014.pdf?nocdn=1)

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: 25x'25
Sent: Fri 4/24/2015 4:04:20 PM
Subject: Weekly REsource for April 24, 2015

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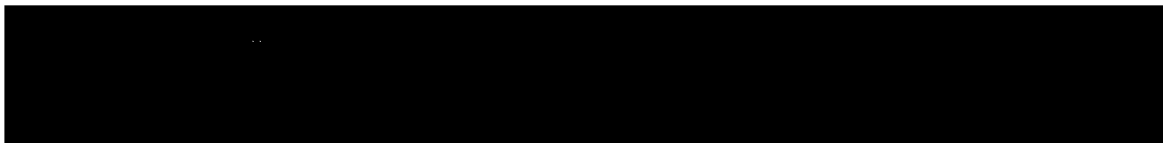
The 25x'25 Weekly REsource is a digest that features items from this week's blog site, the [25x'25 REsource](#), and other sources. The [25x'25 REsource](#) and the 25x'25 Weekly REsource complement the role of [25x'25](#) as an objective and trusted source of information on agricultural and forestry renewable energy and climate solutions. Also, visit us at our [Facebook page](#) and follow us on [Twitter](#).

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Our Featured Blog

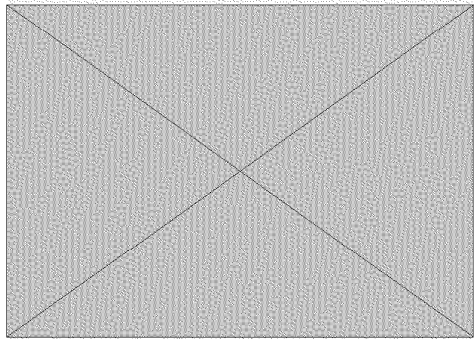
More Effort than Ever Needed to Protect State Renewable Energy Standards

With the early weeks of spring come state legislatures entering the heart of their sessions and the serious efforts lawmakers across the country are putting into

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News of Note

regulatory initiatives that will impact their constituents for years to come. And as witnessed in recent years, this is also the time of year in which so-called "free market" advocates move to weaken or eliminate state-imposed mandates requiring specific percentages of their respective state's electrical power be generated from renewable resources like wind, solar and biomass. Stakeholders and other advocates all across the country must stay strong and urge their policy makers not to let bogus "free market" arguments, many coming from those representing fossil fuel interests, to dilute the influence of customers, distributed generators and independent power providers who demand their states towards a more diversified energy future. Climate change, with partner with agricultural producers to address their own future of climate change, with renewable energy, including biofuels and biomass, playing a major part in the initiative.



In a speech at Michigan State University, the secretary said the project will build on the creation of USDA's Climate Hubs last year, and utilize voluntary, incentive-based conservation, forestry, and energy programs to reduce greenhouse gas emissions, increase carbon sequestration and expand renewable energy production in the agricultural and forestry sectors.

The department said that USDA expects to reduce net emissions and enhance carbon sequestration by more than 120 million metric tons of CO₂ equivalent per year - about 2 percent of economy-wide net greenhouse emissions - by 2025. The estimated reduction is the equivalent of taking 25 million cars off the road, or the emissions produced by powering nearly 11 million homes last year.

The project aims to promote renewable energy technologies and improve energy efficiency. The department says it will use the Energy Efficiency and Conservation Loan Program to work with utilities to improve the efficiency of equipment and appliances. Using the Rural Energy for America Program, the project plans to develop additional renewable energy opportunities, while supporting the National On-Farm Energy Initiative will improve farm energy efficiency through cost-sharing and energy audits.

Headlines of Note

Addressing climate change is critical for future agricultural and forest health and will require innovation, creativity, and consideration of all potential solutions," USDA said in a statement. "Liquid renewable fuels, ethanol and biodiesel, are already supplying 10 percent of U.S. transportation fuel needs. Great strides have been made to improve the performance of the ethanol and biodiesel industry. The newest and most efficient ethanol plants produce fuels that reduce greenhouse gas emissions by over 40 percent, and there are opportunities to improve performance even further."

[Advanced Biofuels Bill Big Win for Minnesota Timber Industry](#)

[American Wind Energy Adds Jobs in 2014, Credits PTC Tax Credit](#)

[Batteries and Renewable Energy Set to Grow Together](#)
The project also cites biomass as contributing to heating, cooling and electric needs, offering a low-cost option to reduce greenhouse gases.

[Boom Puts Spotlight on Renewing Solar Tax Break](#)

[Con Edison Reports Customers Saving Money with Rooftop Solar Arrays](#)

"USDA is promoting a strategy that recognizes forest stocks can reduce emissions by substituting for fossil fuels and energy intensive materials," the department said. "Doing so will create strong markets for wood materials, raise the value of lands in forests, and encourage investment in forest regrowth and expansion."

[Experts: Bioenergy Industry Has Potential to Bring Jobs to North Carolina](#)

[Farming Sunshine by the Megawatt](#)

[How Fast Is Solar Energy Taking Off?](#)
Other "building blocks" for the initiative cited by USDA include soil health, nitrogen stewardship, livestock partnerships, conservation of sensitive lands, grazing and pasture lands, private forest growth and retention, and promotion of wood products.

[Major Changes Needed for U.S. Power Infrastructure, Says Obama Report](#)

[Renewables Account for 75% of New U.S. Generating Capacity in 1Q 2015](#)

Vilsack was joined at Michigan State by Brian Deese, senior advisor to President Obama, as well as agricultural producers and other private partners.

[Solar Power Battle Puts Hawaii at Forefront of Worldwide Changes](#)

[What's New in Renewable Energy on This Earth Day](#)

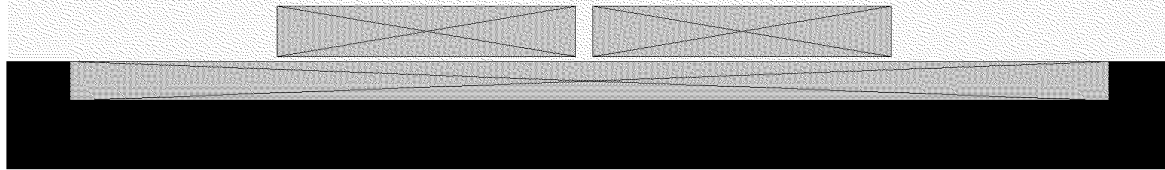
"American farmers and ranchers are leaders when it comes to reducing carbon emissions and improving efficiency in their operations. That's why U.S. agricultural emissions are lower than the global average," said Vilsack. "We can build on this success in a way that combats climate change and strengthens the American agriculture economy. Through incentive-based initiatives, we can partner with producers to significantly reduce carbon emissions while improving yields, increasing farm operation's energy efficiency and helping farmers and ranchers earn revenue from clean energy production."

Upcoming Events

[East Tennessee Clean Fuels Webinar Set for April 28](#)

Deese noted that last year, the president made a pledge to reduce U.S. greenhouse gas emissions in the range of 26-28 percent below 2005 levels by 2025. The White House advisor said that the initiative announced this week will help the American agriculture

25x25 Sponsors contribute to the goal.



The sponsors of the legislation agreed.

"On the bill's merits - creating jobs, saving consumers money and reducing pollution - it was never a hard sell," Shaheen said. "The tough part was convincing Washington to not play politics with a good idea."

"Our targeted energy efficiency bill has garnered widespread support because of a simple fact: It is good for the economy and good for the environment," Portman said.

The broader efficiency measure, which has been under consideration since 2011 and also enjoys broad bipartisan support, would create incentives for federal mortgage lenders to incorporate energy-efficient heating and cooling systems into the value of a home, establish training programs in energy-efficiency construction, create programs to increase the energy efficiency of manufacturing supply chains, and direct DOE to work with manufacturers on energy-efficient technology.

That bill, however, has been hung up in partisan wrangling over issues such as the Keystone XL pipeline or climate change, though Shaheen says it will be pushed later this year.

To get passage this week, Shaheen and Portman hewed their bill down to get some energy efficiency measure through both houses. They say they will make efforts to bring the broader bill back later this year.

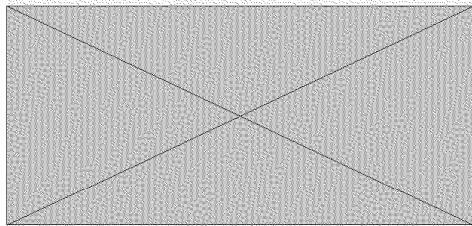
"Hopefully this is a harbinger of future energy efficiency bills," said ACEEE's Nadal. "For example, the Senate Energy and Natural Resources Committee will hold a hearing April 30 on a broader array of energy efficiency bills, and the House Energy and Commerce Committee is expected to hold a similar hearing soon."

He said congressional passage of the smaller Shaheen-Portman bill shows a recognition of "the value that energy efficiency brings to America's homes and

businesses, such as reduced energy bills and a better-functioning electric grid."

Administration Announces New Agenda to Modernize Energy Infrastructure

The Obama administration says the nation must modernize its energy infrastructure, create a clean energy economy built to last, combat climate change, and increase reliance on domestic energy resources, according to the first-ever Quadrennial Energy Review (QER), which was released this week.



The report was welcomed in the renewable energy sector for recognizing the need to upgrade transmission facilities to accommodate market growth for clean energy.

The QER examines how to modernize the U.S. energy infrastructure to promote economic competitiveness, energy security and environmental responsibility, and take full advantage of American innovation and the new sources of domestic energy supply that the White House says are transforming the Nation's energy marketplace.

The report focuses on energy transmission, storage and distribution (TS&D) infrastructure, including the networks of pipelines, wires, storage, waterways, railroads, and other facilities that form the backbone of the U.S. energy system.

The White House says the QER identifies opportunities the systems provide for a clean and secure energy future, as well as some growing and potential vulnerabilities of these systems. The report also proposes policy recommendations and investments to replace, protect, expand, and modernize TS&D infrastructure.

The QER asserts that the United States has the most advanced energy systems in the world, supplying the reliable, affordable and increasingly clean power and fuels that underpin every facet of the nation's economy.

"But our energy landscape is changing dramatically," the White House says in a fact sheet issued with the analysis. "Solar electricity generation has increased 20-fold since 2008, and electricity generation from wind energy has more than tripled. During that period, the United States has also become the world's leading producer of oil and natural gas combined."

Better efficiency have reduced electricity and gasoline consumption significantly over the past decade, a development that has implications for energy policy and for the Nation's TS&D infrastructure, the White House says.

"The focus of U.S. energy-policy discussions has shifted from worries about rising oil and natural gas imports to debates about how much and what kinds of U.S. energy should be exported, concerns about safety and resilience, integrating renewable sources of energy, and the overriding question of what changes in patterns of U.S. energy supply and demand will be needed - and how they can be achieved - for the United States to do its part in meeting the global climate-change challenge," the fact sheet states.

The administration says TS&D infrastructure is increasingly vulnerable to extreme weather events like hurricanes, flooding, and wildfires, while changes in the geography of domestic energy production stress the ability of existing infrastructures to move both liquid fuels and electricity from supply regions to demand centers. Also cited is congestion in the nation's ports, waterways and rail systems that affect the timing and cost of moving not just energy products, but all commodities.

"Modernizing the Nation's TS&D infrastructure also presents the opportunity to enhance U.S. competitiveness in a global economy," the White House states. "And it will support jobs: approximately 1 million people were employed in energy transmission, storage, and distribution jobs in 2013. By making smart investments, there is the potential to support 1.5 million additional energy sector jobs for the transmission, storage and distribution segment alone."

The administration says that "addressing the opportunities, challenges, and vulnerabilities associated with TS&D infrastructure" will require both private and public sector collaboration. The report offers findings and recommendations that focus on the federal role, and are organized around high-level goals of energy security, economic competitiveness and environmental responsibility.

"Long-needed transmission upgrades have played a critical role in allowing Americans to access low-cost renewable energy in recent years," says Michael Goggin, senior research director at the American Wind Energy Association (AWEA), in a blog on the trade group's website. "These grid upgrades more than pay for themselves, often with a benefit-cost ratio approaching 2-1 by delivering a host of other benefits"

He cites as an example investment in the interstate highway network that has provided benefits to nearly every sector of the economy.

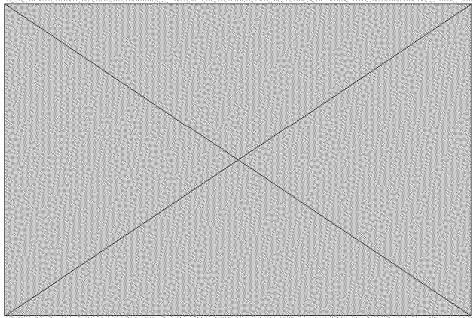
"In addition to saving consumers money by providing access to low-cost clean energy, grid upgrades improve electric reliability, make electricity markets more competitive, protect consumers against fuel price fluctuations and provide other benefits," Goggin says.

"Today's grid is ancient, aging ungracefully and facing enormous challenges in the future - from meeting America's day-to-day electricity needs to national security threats," says Ken Johnson, vice president of communications for the Solar Energy Industries Association (SEIA). "For renewables in particular, the grid doesn't exist in many places that offer the best solar resources - or what infrastructure does exist is already committed to other generation sources. Simply put, new or upgraded transmission capabilities will help to move power from where it's generated to where people need it the most. Without question, dramatic changes to the grid are needed in the years ahead."

USDA Announces Funding for Rural Electric Infrastructure Projects

Three rural electric infrastructure projects in North Carolina that will use solar energy to generate electricity for rural communities are among six that will receive USDA funding,

the department said this week.



"These solar projects represent an ongoing commitment from rural electric cooperatives to increase the diversity of their fuel sources with a focus on renewable energy," Agriculture Secretary Tom Vilsack said. "For nearly 80 years, USDA's Electric Program has financed safe, reliable and affordable electricity to help strengthen rural economies, and we will continue to do so for years to come."

Vilsack announced \$72 million for six electric infrastructure projects, including \$20 million loan to help Montgomery Solar Owner, LLC in Cornelius, N.C., build a 20 megawatt solar farm.

Since 2009, USDA's Rural Utilities Service has provided \$1.1 billion for 18 renewable projects, which also include biomass and wind as well as solar.

Citing what the White House says is an "all of-the-above energy strategy," Vilsack said renewable energy generation, like the projects announced this week, "will have lasting benefits for our energy future."

The secretary said the importance of the USDA investments 'should be lost on no one, especially as we celebrate Earth Day this week."

Vilsack also announced today that Chocowinity Solar, LLC and Cirrus Solar, LLC (both are based in Cornelius, N.C.) are each receiving \$5-million loans to build 5-megawatt solar farms. Combined, the Chocowinity, Cirrus and Montgomery solar projects will generate 30 megawatts of power.

The announcement also includes a \$17-million loan to Rolling Hills Electric Cooperative, Inc. in Kansas to build or improve 197 miles of transmission and distribution line and make other system improvements. The loan includes \$315,000 for smart grid projects.

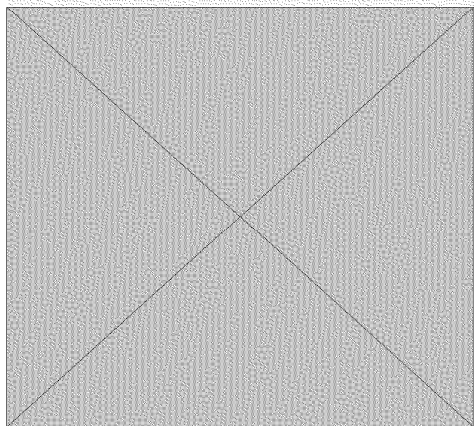
Broad River Electric Cooperative, which serves rural customers in North and South Carolina, will receive an \$18-million loan to build or improve 138 miles of line and make other system improvements. The loan includes \$347,360 for smart grid projects.

In Vermont, the Washington Electric Cooperative, Inc. has been selected to receive a \$7 million loan to build or improve 46 miles of line and make other system improvements. The loan includes \$185,330 for smart grid projects.

USDA noted the funding announcement coincided with the released of the administration's first-ever Quadrennial Energy Review (QER), a multiyear roadmap for U.S. energy policy.

SEIA: New Report Offers 'Distorted View' of Solar ITC

A study of the role of the investment tax credit (ITC) on the solar industry released this week by the Stanford Graduate School of Business has a 'fatal flaw' because it fails to look the tax treatment received by all established energy sources, says the Solar Energy Industries Association (SEIA).



Quoting the Stanford study as saying that while the solar industry has experienced "dramatic growth," the SEIA says the paper also calls for

a phase-down of the ITC.

SEIA officials criticize the report for calling for the ITC's demise without any examination of the current and past tax treatments of established energy sources.

Rhone Resch, president and CEO of SEIA, called the omission a "fatal flaw" that ignores how Congress has used the U.S. tax code over the past century to encourage the increased production of oil, gas, coal and even nuclear power, making it difficult for solar and other renewable energy sources to compete in the marketplace without incentives.

"Unfortunately, the report looks at the solar Investment Tax Credit in a vacuum, without any consideration given to the 100-year history of preferential tax treatment enjoyed by fossil fuels," Resch said. "This results in a distorted view of reality. Today, solar is following a similar development curve as traditional energy sources, such as oil, gas and coal, which received substantial subsidies during their growth periods and are still getting many of them today."

Resch says that while solar is becoming more and more cost competitive every day, "we're far from having a level playing field in America when it comes to energy production." He cites a Congressional Research Service finding that "for more than a half a century, federal energy tax policy focused almost exclusively on increasing domestic oil and gas reserves and production. There was no major tax incentive promoting renewable energy or energy efficiency."

"Simply put, the solar ITC has helped to balance the scales and provide some measure of tax fairness," Resch says. "Today, solar employs nearly 175,000 Americans - with 150,000 of those jobs created since the ITC was implemented - and pumps nearly \$20 billion a year into the U.S. economy."

He says the industry is providing enough clean electricity to power more than 4 million homes nationwide - a number that is expected to double in the next two years.

"By any measurement, the solar ITC is paying big dividends for America," Resch says. "The discussion in Congress should be about extending the ITC at current levels, not

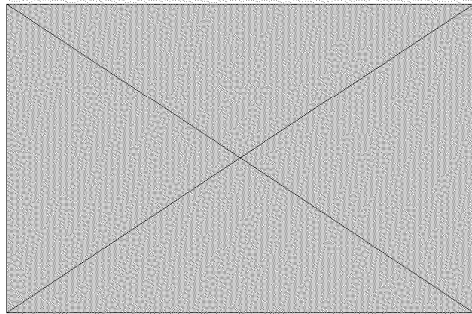
ending it. Stable, consistent public policies, such as the ITC, are helping to fuel solar energy's remarkable growth, while providing real consumer choice in the marketplace."

Resch says that without the ITC in place, "we do agree with the report's authors that solar 'is headed for a cliff,' putting a decade of progress and tens of thousands of American jobs in jeopardy, while the oil and gas industry will continue to receive nearly \$100 billion over a 10-year period in special tax breaks. At the end of the day, America benefits from smart, effective public policies which foster full and fair competition."

GE Exec Confident of PTC Renewal

The CEO of General Electric says he expects Congress to renew the production tax credit (PTC) that has long been valued by the wind energy industry.

GE is one of the world's largest wind turbine manufacturers.



"We always think about the U.S. in the context of the PTC, and there is nothing we see today that indicates that the PTC is not going to get rolled over in some capacity," said Jeff Immelt, GE's chairman of the board and chief executive, in an earnings call this week.

The PTC and the investment tax credit (ITC), a market-ready alternative to the PTC, expired in 2013, but were renewed retroactively in late 2014 before expiring again at the end of that year.

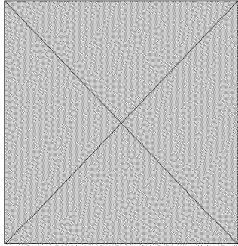
The PTC offers a credit of 2.3 cents/kilowatt hour during the first 10 years of wind farm

operation. The ITC is worth up to 30 percent of the costs of developing and building wind projects.

Projects that began construction or spent at least 5 percent of total costs before the end of 2014 are eligible for the credits. A recent Internal Revenue Service ruling determined that projects don't have to prove continuous construction, but will qualify as long as they come into service by the end of 2016.

Immelt said GE is expected to ship 3000 to 3200 turbines this year.

Xcel Energy Named No. 1 Utility Wind Provider for 11th Consecutive Year



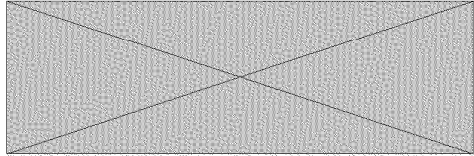
The final webinar in the series is set for Tuesday, April 28, featuring a biofuels urban success story.

Biofuels Success Story: Fort Wayne, Indiana

- Presented by Larry Campbell, CPFP, Director of Fleet Management, City of Fort Wayne, Indiana
- April 28, 2015
- **8:30 a.m. CT, 7:30 a.m. ET**
- When it's time, [join the webinar directly here](#). You may use your computer's speakers and microphone to listen and pose questions, or dial in:
 - Call line: 415-655-0001
 - Access code: 199 412 493

Speakers Confirmed for NDARE Solar Event

The North Dakota Alliance for Renewable Energy is pleased to announce that ND Public Service Commission Chair Julie Fedorchak will offer remarks as part of the upcoming ND Solar Workshop, scheduled for 1-4:30 p.m. Tuesday, May 12th, at the ND Association of Rural Electric Cooperatives Ulmer Center in Mandan.



In addition, to Fedorchak, local and community solar planning expert Brian Ross and LSU Ag Center Extension Housing Specialist Claudette Reichel will be speaking.

A finalized agenda will soon be available.

To register for the workshop, [click here](#). Space is limited.

Other events of interest to 25x'25 partners and other renewable energy stakeholders can be found by clicking [here](#).

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Subject: FYI RFS

FYI—video

AEC's Coleman: RFS doesn't need legislative changes

The Environmental Protection Agency should work harder to get ethanol blending requirements out on time because delays are affecting investment in the sector, said Advanced Ethanol Council Executive Director Brooke Coleman. The Renewable Fuel Standard gives the EPA the tools it needs to address this concern, as well as making sure the program is workable for advanced biofuels, so the fix needs to come from the agency, rather than Congress, he said. "The RFS legislatively is a political compromise. You can point to any part of it and say, well, that's not perfect, but it's the most -- it's the gold standard for advanced biofuels policy in the world," he said. [EENews.net \(free content\)](#) (4/16)

Brent Erickson

Executive Vice President

Industrial and Environmental Section

Biotechnology Industry Organization (BIO)

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Washington, D.C. 20024

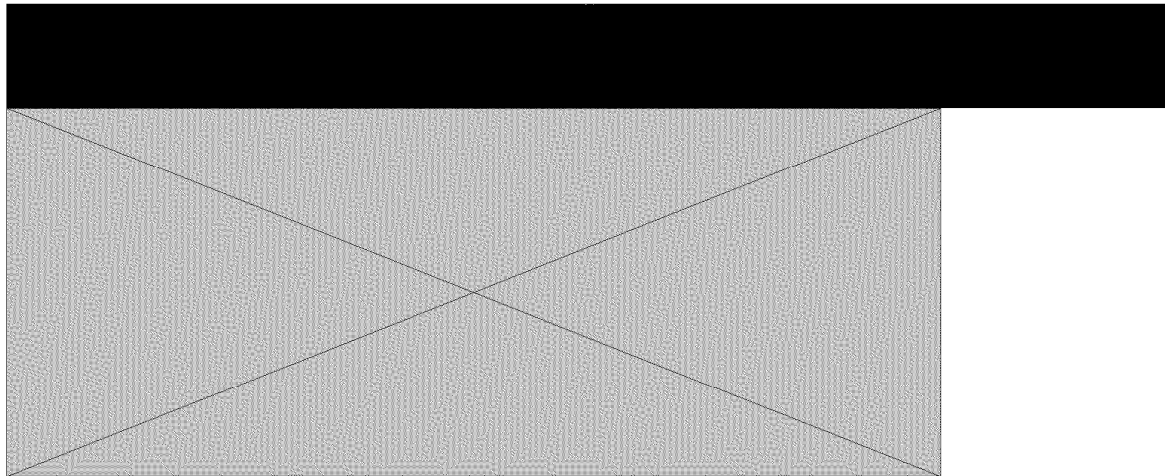
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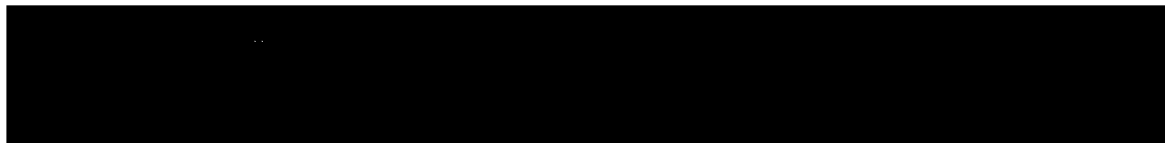
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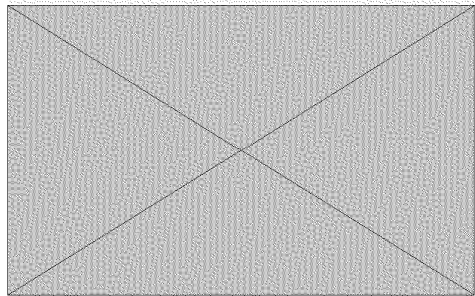
EIA Numbers Show 25x'25 Goal Remains Readily Obtainable

Given the resistance in some corners of Congress to the role of renewable energy in

News of Note

Meeting the nation's energy needs, questions sometimes arise as to the progress being made toward the 25x'25 goal. However, due to a number of renewable energy technologies hitting what many analysts are calling a "turning point" - low costs coupled with wide availability - that signifies not only the acceptance but unstoppable growth in the energy market, the goal remains readily obtainable. The progress being made toward the goal was demonstrated with data recently released by DOE's Energy Information Administration (EIA) showing that in 2014, renewable energy sources accounted for 13.19 percent of net U.S. electrical generation, while in the transportation sector, the production of biofuels continue to trend high, even though progress was hindered by policy insecurity due to a lack of EPA finality on setting Renewable Fuel Standard requirements last year. [Read more](#)

NREL: 80 Percent of U.S. Electricity Could Come From Renewables in 2050



Examining the extent to which renewable energy can meet the electricity demands of the continental United States over the next several decades, the study explores the implications and challenges of very high renewable electricity generation levels - from 30 percent up to 90 percent, focusing on 80 percent, of all U.S. electricity generation - in 2050.

In *Renewable Electricity Futures Study (RE Futures)*, the NREL researchers acknowledge that at such high levels of renewable electricity generation, the unique characteristics of some renewable resources, specifically geographical distribution and variability and uncertainty in output, pose challenges to the operability of the nation's electric system.

However, the researchers say that increased electric system flexibility, needed to enable electricity supply and demand balance with high levels of renewable generation, can come from a portfolio of supply- and demand-side options, including flexible conventional generation, grid storage, new transmission, more responsive loads, and changes in power system operations.

Headlines of Note

The study also finds that the abundance and diversity of U.S. renewable energy resources can support multiple combinations of renewable technologies that result in deep reductions in electric sector greenhouse gas emissions and water use.

[At Last! EPA Proposes Timelines for Finalizing 2014, 2015, 2016 RFS Volumes](#)

[Also the direct incremental cost associated with high renewable generation is comparable to published cost estimates of other clean energy scenarios. The authors note that improvement in the cost and performance of renewable technologies is the most impactful lever for reducing this incremental cost](#)

[Colorado's Big Coal-Burning Utilities Take a Turn to Renewable Energy](#)

[Cost-Competitive Geothermal Can Stimulate Economy](#)

[EIA's *Futures* provides initial answers to important questions about the integration of high penetrations of renewable electricity technologies from a national perspective, focusing on key technical implications. The study explores electricity grid integration using models with unprecedented geographic and time resolution for the contiguous United States to assess whether the U.S. power system can supply electricity to meet customer demand on an hourly basis with high levels of renewable electricity, including variable wind and solar generation](#)

[EIA Report: How Solar Will Help U.S. Become a Net Energy Exporter](#)

[Ethanol Advocates Encouraged After Clinton Expresses Support for Renewables](#)

[Hawaii Can Support 100 Percent Renewable Energy Goal, New Report Says](#)

[Measuring the Effects of Utility-Scale Solar Growth](#)

[Neb. Rep. Introduces Legislation to Increase Fuel Options for Consumers](#)

[New York's Smart Grid Research May Shape U.S.](#)

[Quad Cities Corn Processors Produce Million Gallon of Cellulosic Ethanol](#)

[Six Facts about the Impending Renewable Energy Revolution](#)

[Solar, Wind, Hydropower: Home Renewable Energy Installations](#)

[USDA Awards Funds to Expand Accelerate Wood Energy, Wood Product Markets](#)

[EIA's *Futures* results indicate that renewable generation could play a more significant role in the U.S. electricity system than previously thought and that further work is warranted to investigate this clean generation pathway.](#)

Upcoming Events

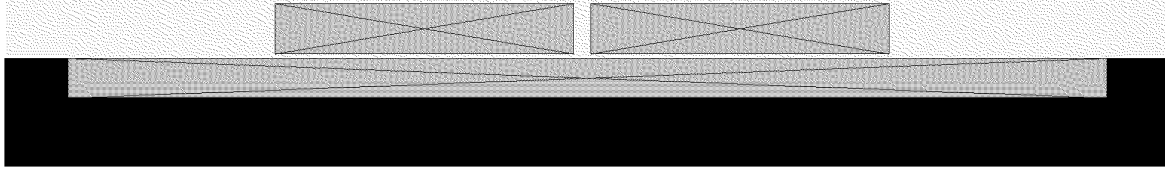
EIA: Renewables Can Play Big Role in Making U.S. a Net Energy Exporter

Register Now for Critical ACORE Energy Policy Forum April 22-23

The [Annual Energy Outlook 2015](#) (AEO2015) released this week by DOE's Energy Information Administration (EIA) shows renewable energy can help make the United States a net energy exporter in the next five to 15 years. Achieving a balance in energy exports and imports would be a first since the 1950s.

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the AEO2015 Reference case and before 2020 in the high oil price and high oil and gas resource cases.

The outlook says significant net energy imports persist only in the low oil price and high economic growth cases, where U.S. supply is lower and demand is higher.

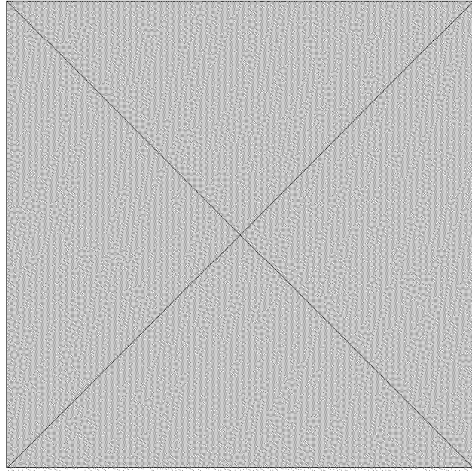
The analysis also shows technology and policy promote slower growth of energy demand. U.S. energy use grows at 0.3 percent per year from 2013 through 2040 in the reference case, far below the annual rates of economic growth (2.4 percent) and population growth (0.7 percent).

Decreases in transportation and residential sector energy consumption offset growth in other sectors. Declines in energy use reflect the use of more energy-efficient technologies as well as the effect of existing policies that promote increased energy efficiency. Fuel economy standards and changing driver behavior keep motor gasoline consumption below recent levels through 2040 in the reference case.

The AEO2015 cases generally reflect current policies, including final regulations and the sunset of tax credits under current law. Consistent with this approach, EPA's proposed Clean Power Plan rules for existing fossil-fired electric generating units or the effects of relaxing current limits on crude oil exports are not considered in the analysis.

EPA Sets Timeline to Propose, Finalize RFS Standards for 2014, 2015, 2016

Renewable Fuel Standard (RFS) biofuel blending requirements for 2014 and 2015 will be issued June 1 and finalized by Nov. 30, under a [consent decree](#) filed by EPA in a filed earlier this year lawsuit by the American Petroleum Institute (API) and the American Fuel and Petrochemical Manufacturers (AFPM).



The two petroleum trade organizations said EPA's failure to issue the RFS requirements has hampered the ability of oil companies to fiscally plan in a responsible way

Though not a part of the consent decree, the agency also promised to propose the RFS volume requirements for 2016 by June 1 and finalize them by Nov. 30. The agency said it would also propose and finalize the RFS biomass-based diesel volume requirement for 2017 on the same schedule, and said the volume requirements for 2014 will reflect the volumes of renewable fuel that were actually used in 2014.

The EPA's announcement was generally received favorably in the biofuels industry, with most citing the "policy certainty" over blending requirements for ethanol and biodiesel producers have long waited for.

Advanced biofuel industry leaders have said the RFS must be maintained at strong levels to insure adequate investment in - and the assured development of - the next generation of sustainable fuels, like cellulosic ethanol.

"I am pleased to hear that the EPA has finally put a process in place to establish some certainty for biofuel producers," said Tom Buis, CEO of Growth Energy, a trade group representing ethanol manufacturers. "Our producers have faced ambiguity for too long and today is welcome news that they are establishing a level of certainty with this announcement.

"However, Buis said, "far more important than timing is that that the EPA establishes a final rule that moves our industry forward and reflects the bipartisan vision Congress intended for the RFS."

He said EPA's commitment to finalizing the 2016 RFS (renewable volume obligations) ensures that the RFS is back on a path to certainty for the biofuels industry, providing the necessary guidance for the industry to continue to thrive and advance alternative fuel options for American consumers."

The RFS has been under pressure from some in Congress who want to weaken it or repeal the 2007 measure entirely.

Bob Dinneen, president and CEO of the Renewable Fuels Association, said that "while we are sympathetic to the difficulty EPA faces in promulgating annual targets, the statute is clear about the volumes required and the agency simply has to do a better job moving forward. This consent agreement is a good start.

Brooke Coleman, executive director of the Advanced Ethanol Council, says the agreement between the oil industry and EPA "is actually a good signal for the advanced biofuels industry because it lays out a time frame and a reasonable market expectation for resolving the regulatory uncertainty around the RFS."

He also said advanced biofuel manufacturers were encouraged by EPA's decision late last year to pull a problematic 2014 proposal, stating his group is "optimistic that EPA will make the necessary adjustments and put the RFS back on track going forward."

The 2014 proposal that EPA proposed in late 2013 would have required refiners to blend only 15.21 billion gallons of renewable fuels into petroleum-based gasoline and diesel next year, a reduction of 2.95 billion gallons from the 2014 target set by a bipartisan vote of Congress in 2007, when lawmakers expanded the RFS through the Energy Independence and Security Act. The overall renewable fuel mandate proposed for this year is also considerably less than the total required in 2013. A lion's share of the proposed reduction would come in the corn ethanol requirement, which would drop from 14.4 billion gallons to a little more than 13 billion gallons, an amount even less than the 13.8 billion gallons required last year.

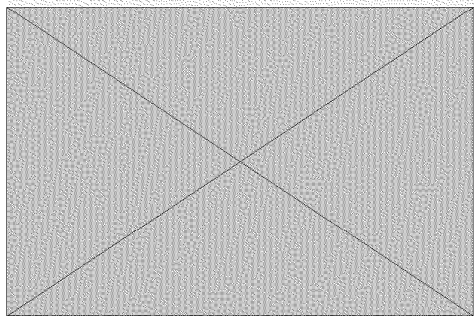
In addition to sharp criticism of the proposal from the corn ethanol industry, charges that EPA's plan would seriously harm production came from the biodiesel sector. The proposal would have kept the 2014 biodiesel requirement at about the same 1.28 billion gallons called for in 2013, despite the fact that U.S. producers generated an estimated 1.75 billion gallons in 2014.

"Clearly, ongoing questions will remain as to the volume levels proposed by EPA," said Anne Steckle, vice president for federal affairs with the National Biodiesel Board. "But EPA has reiterated that it 'will re-propose volume requirements for 2014, by June 1, that reflect the volumes of renewable fuel that were actually used in 2014.'"

She said EPA offering a commitment to "actual use" "appears to be a step in the right direction."

Study Shows Ethanol is a \$5 Billion Industry in Nebraska

An impact study released this week by University of Nebraska-Lincoln economists reveals Nebraska's ethanol production capacity growth between 1995 and 2014 is tenfold and that the biofuel generates a \$5 billion industry each year.



Economic Impacts of the Ethanol Industry in Nebraska shows that as of June 2014, Nebraska's production capacity was 2,077 million gallons per year with 1,301 full-time employees at 24 facilities. During the past five years, Nebraska's value of production for ethanol and dried distillers grain with solubles (DDGS) ranged from slightly under \$4 billion to more than \$6.6 billion, with the

last three years averaging close to \$5 billion per year.

"The quantifiable economic impact of ethanol production on the Nebraska economy is clear," said Paul Kenney, chairman of the Nebraska Ethanol Board. "But we should also understand the enormous savings in health and environmental costs associated with displacing toxic petroleum products with cleaner burning biofuels like ethanol. Choosing ethanol fuels brings additional cost savings in terms of our health."

Nebraska's large ethanol production - it ranks second in the country, behind Iowa - results in 96 percent (1.805 billion gallons) being shipped out of state, making Nebraska one of the largest exporters of bioenergy. In addition, 58 percent of DDGS produced in 2014 were shipped out of state. These out-of-state shipments result in a net positive for the state and represent a direct economic impact by bringing new money into the state economy, the board says.

The study noted that Nebraska's ethanol industry could be affected by emerging trends and at least four are worth watching - the recovery of carbon dioxide (CO₂), the extraction of corn oil, and world export markets for both ethanol and DDGS.

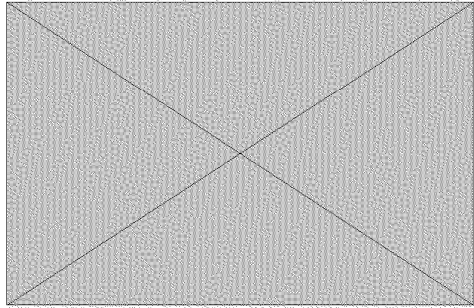
"Canada imports 40 percent of the U.S. ethanol exports and China imports 39 percent of the U.S. distillers grains," said Todd Sneller, Nebraska Ethanol Board administrator. "There is a strong demand throughout the world for ethanol and its co-products, so we continue to look for ways to expand the Nebraska market as well as international markets in an effort to bring more economic prosperity to Nebraska."

The purpose of the study was to estimate the value of production during five years and compare that value to major commodity production values in Nebraska. In addition, the study measured productive capacity, employment, net returns, in-state utilization and out-of-state shipments.

DOE Working to Assure Solar Modules Will Last for Decades

The DOE's National Renewable Energy Laboratory (NREL) is co-leading an

international push to assure the reliability of solar panels demanded by customers, manufacturers, lenders and utilities.



Solar photovoltaic (PV) systems affected by defective or underperforming panels is very low - just 0.1% per year according to new data of 50,000 systems analyzed by DOE's National Renewable Energy Laboratory. Installed between 2009 and 2013, the systems studied reported hardware problems occurring in only one percent each year. Inverter failures and fuse failures were reported more commonly than panel failure.

Despite hurricanes, hail, shading, vandalism, and hook-up delays, approximately 85% of all systems each year produced 90% or more of the electricity predicted, and the typical system produces more electricity than predicted. Year to year comparisons suggest that the degradation rate-the gradual loss of energy production-is in the historical range of 0.5%-1% per year.

But in the face of pressure to keep lowering prices, it is essential that quality be maintained and assured, said Sarah Kurtz, a Research Fellow at NREL who manages the lab's PV Module Reliability Test and Evaluation Group.

The International PV Quality Assurance Task Force (PVQAT) was formed in 2011 to develop standards to help customers quickly assess a PV product's ability to withstand regional stresses and gain confidence that purchased PV products will be of consistent quality in their design for specific conditions, in the manufacturing process and in system quality.

The goal for PVQAT is a quality assurance rating system that will identify module designs suitable for deployment in different climates, provide a valid basis for manufacturers' warranties, and provide investors with confidence in their investments. In

addition, the group aims to create guidelines for inspecting factories during module manufacturing.

At the recent 2015 Photovoltaic Reliability Workshop hosted by NREL, Wells Fargo Environmental Finance Banker Jon Previtali told the international gathering that 3.7 gigawatts of utility-scale solar were installed in the United States in 2014, a 10-percent increase from the previous year. In all, 10.6 gigawatts have been installed in the United States.

"You should be proud of that," Previtali, who also is an engineer, told the gathering. "That's the equivalent of 10 nuclear plants or 10 coal-fired power plants."

Previtali also noted that more banks are jumping into the solar market, and with the added competition comes diminished profits. That is why it is essential that investors, along with everyone else in the solar industry, know with maximum assurance how long the PV systems will last and what degree of degradation over time they can expect.

He noted that his bank faced decisions on advancing huge sums of money to two solar projects that had eleventh-hour problems with solar panel reliability. The bank assembled a team to set rules for fixing the problems and adjust the revenue projections based on the likelihood of lower overall energy output. But along the way, his team also learned the importance of putting every test requirement in writing-and being very specific. Requiring a test for infrared inspection isn't enough. It's important that the bank and the developer agree to the precise type of test-not, for example, an airplane flyover that falls far short of capturing the detailed images needed to identify a potential problem.

"All these areas I've highlighted are areas that your work influences, one way or another," Previtali told workshop attendees. "So the work you are doing is very material."

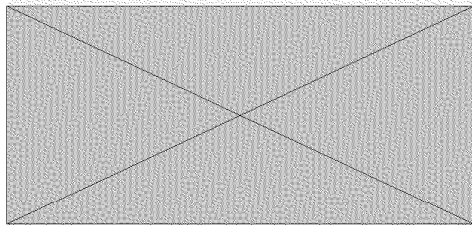
He said that in the future when his bank has concerns about performance ratio tests, he likely will turn to new work at NREL headed by Jordan on the methodology of calculating degradation rates. "I'm definitely going to share what I learned here today with my colleagues," he said. "The most important thing is to include new higher quality

standards in our contracts that module manufacturers and developers have to meet in order for us to sign on."

As the focus in the PV industry is shifting away from pure growth, NREL and its partners around the world are addressing the critical needs of reliability and durability of modules, NREL's Kurtz said. "Reliability has become an even more central issue."

Development Firms Help Texas Utility to Complete Innovative Microgrid

Oncor, an electric transmission and distribution company serving 10 million customers across Texas has unveiled this week what its developers call one of the most advanced microgrids in North America.



S&C Electric Company, a smart grid developer, teamed with Schneider Electric, an energy management firm, to develop the microgrid, which is engineered to maximize newly installed energy storage, renewable generation and improve reliability.

S&C and Schneider Electric combined new hardware and software technologies for the state-of-the-art facility, which includes an integrated demonstration center for Oncor to showcase the microgrid's advanced capabilities and customer benefits. (To watch a video and learn more about Oncor's microgrid, click [HERE](#).)

S&C and Schneider Electric built the microgrid at Oncor's System Operating Services Facility near Lancaster, in Central Texas. The system consists of four interconnected microgrids and utilizes nine different distributed generation sources, including two solar photovoltaic arrays, a microturbine, two energy storage units and four generators.

To turn the diverse generation assets into a microgrid, S&C and Schneider Electric developed a distribution automation scheme that leverages multiple intelligent grid solutions from both companies - enabling the four microgrids to effectively operate independently or as one larger microgrid.

"Improving power reliability and optimizing generation assets requires disruptive technologies that allow customers to work on and off the grid," says David Chiesa, director of Microgrid Business Development with S&C. "Oncor's microgrid is showing the world how utilities can help their communities in the future."

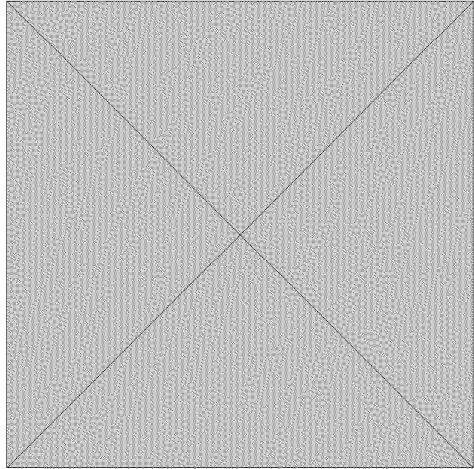
During a loss-of-power event, a combination of S&C's Distribution automation equipment and Schneider Electric's Microgrid Controller (MGC) use high-speed communications and distributed grid intelligence to automatically detect a problem on the grid. It starts with S&C's proprietary fault interrupter, which detects an interruption in power, tests to see if the issue is temporary or permanent, and if it is permanent dynamically islands the facility. The system then uses S&C's proprietary switches and switchgear to automatically re-configure the distribution system while the MGC autonomously switches to alternative distributed power sources.

"It does all of this in a matter of seconds, or faster than a customer could find their flashlight in the dark," says Chiesa.

Energy storage systems are the backbone of the microgrid. The onsite storage - which stores energy from either the utility feed or any of the facility's generation sources - provides the voltage signal for the site, enables renewable integration, controls the microgrid frequency and is the first generating source to respond during an unexpected loss of power.

Why 2015 Could Be Record Year for the Greening of U.S. Energy

Join the renewable energy industry next week in Washington as it mobilizes key policymakers and federal and state stakeholders to deliberate, develop and advance the critical near and long-term policy priorities that will motivate the President in his last two years in office, the new Congress, state leaders, and the emerging slate of 2016 Presidential candidates.



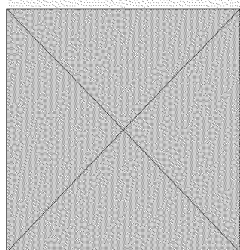
ACORE's Policy Forum, which is set for April 22-23 at The Westin at Washington, D.C. City Center, champions the progress of the industry in reducing costs and deploying at scale, and will feature policymakers, industry leaders and other perspectives to outline challenges and highlight opportunities facing the sector.

The Forum will drive bipartisan renewable energy policy priorities and strategy for the next two years, setting up a successful long-term outlook for the industry. The outcome of the Forum - the policy agenda for renewable energy policy - will be shared with the President and Congress, as well as governors, legislators, and regulators in the states.

Use 20-percent discount code SPT2025and

REGISTER TODAY at www.acorepolicyforum.com

East Tennessee Clean Fuels Continues Webinar Series April 21



East Tennessee Clean Fuels has two remaining webinars left in an ongoing series, including the next one Tuesday, April 21, which will feature a biodiesel

success story from New York City's Department of Citywide Administrative Services.

Biodiesel Successes and Winter Treatments in NYC

- Presented by Keith Kerman, Chief Fleet Officer/Deputy Commissioner
- April 21, 2015
- **12 pm CT, 1 pm ET**
- When it's time, [join the webinar directly here](#). You may use your computer's speakers and microphone to listen and pose questions, or dial in:
 - Call line: 415-655-0001
 - Access code: 199 412 493

The final webinar in the series is set for the following Tuesday, April 28, featuring a biofuels urban success story.

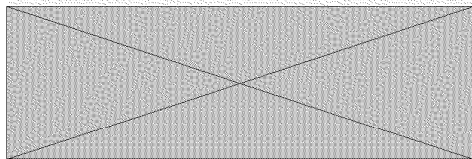
Biofuels Success Story: Fort Wayne, Indiana

- Presented by Larry Campbell, CPFP, Director of Fleet Management, City of Fort Wayne, Indiana
- April 28, 2015
- **8:30 a.m. CT, 7:30 a.m. ET**
- When it's time, [join the webinar directly here](#). You may use your computer's speakers and microphone to listen and pose questions, or dial in:
 - Call line: 415-655-0001
 - Access code: 199 412 493

Visit ET Clean Fuel's [biofuels webinar page](#) more information and a full list of dates and topics. The next webinar will be one week later on April 28.

Speakers Confirmed for NDARE Solar Event

The North Dakota Alliance for Renewable Energy is pleased to announce that ND Public Service Commission Chair Julie Fedorchak will offer remarks as part of the upcoming ND Solar Workshop, scheduled for 1-4:30 p.m. Tuesday, May 12, at the ND Association of Rural Electric Cooperatives Ulmer Center in Mandan.



In addition, to Fedorchak, local and community solar

planning expert Brian Ross and LSU Ag Center Extension Housing Specialist Claudette Reichel will be speaking.

A finalized agenda will soon be available.

To register for the workshop, [click here](#). Space is limited.

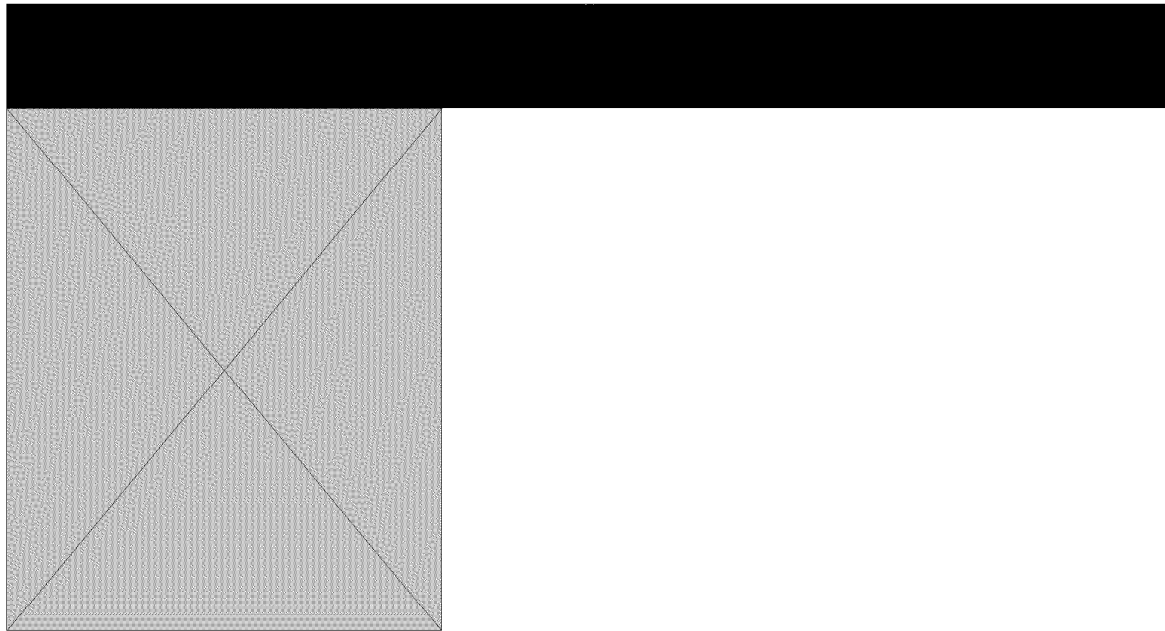
Other events of interest to 25x'25 partners and other renewable energy stakeholders can be found by clicking [here](#).

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: 25x'25
Sent: Fri 4/17/2015 12:03:49 PM
Subject: 25x'25 Reminder: ACORE Policy Forum April 22-23

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ACORE to Hold Energy Policy Forum in Washington April 22-23

Here's a reminder to join the renewable energy industry at ACORE's Energy Policy Forum in Washington next Wednesday and Thursday, April 22-23. Key policymakers and federal and state stakeholders will be mobilized to deliberate, develop and advance the critical near and long-term policy priorities that will motivate the President in his last two years in office, the new Congress, state leaders, and the emerging slate of 2016 Presidential candidates.

The 25x'25 Alliance is a supporting organization for the forum, which will be held at The Westin at Washington, D.C. City Center.

As a top priority for the remainder of his term, President Obama is proposing permanent renewable energy tax credits and other favorable policies. The new Congress will address these policies as it considers the 2015 budget and develops tax reform legislation.

Meanwhile, attention is shifting to the states, as they decide the future of their renewable energy programs, and how to comply with EPA's 111(d) Clean Power Plan. As some propose increases to their renewable portfolio standards, others are considering rollbacks. The Department of Defense, USDA, EPA and other agencies are moving forward on significant renewable energy power and fuels procurement and regulatory implementation. As the 2016 Presidential campaign gears up, renewable energy needs to be an important part of the nation's bipartisan energy strategy.

ACORE's Policy Forum champions the progress of the industry in reducing costs and deploying at scale, and will feature policymakers, industry leaders and other perspectives to outline challenges and highlight opportunities facing the sector. The Forum will drive bipartisan renewable energy policy priorities and strategy for the next two years, setting up a successful long-term outlook for the industry. The outcome of the Forum - the policy agenda for renewable energy policy - will be shared with the President and Congress, as well as governors, legislators, and regulators in the states.

Use 20% discount code SPT2025 and **REGISTER TODAY** at www.acorepolicyforum.com!

25x'25 is a diverse alliance of agricultural, forestry, environmental, conservation and other organizations and businesses that are working collaboratively to advance the goal of securing 25 percent of the nation's energy needs from renewable sources by the year 2025. 25x'25 is led by a national steering committee composed of volunteer leaders. The 25x'25 goal has been endorsed by nearly 1,000 partners. The Alliance is a special project of the Energy Future Coalition (EFC), a broad-based non-partisan public policy initiative that seeks to bring about change in U.S. energy policy to address overarching challenges related to the production and use of energy.

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Larry Schafer
Sent: Thur 4/16/2015 9:14:38 PM
Subject: RE: Can you get together tomorrow

Monday?

Larry Schafer
National Biodiesel Board
O: 202.737.8801
M: 202.997.8072
LSchafer@Biodiesel.org

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-----Original Message-----

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Thursday, April 16, 2015 4:22 PM
To: Larry Schafer
Subject: Re: Can you get together tomorrow

In Nebraska. Back next week.

Paul Argyropoulos
Senior Policy Advisor
USEPA
Office of Transportation and Air Quality
Office: 202-564-1123
Mobile: 202-577-9354

> On Apr 16, 2015, at 2:20 PM, Larry Schafer <lschafer@dcdiamondgroup.com> wrote:
>
>
>
> Larry Schafer
> 202.997.8072

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: BIO - Biotechnology Industry Organization
Sent: Thur 4/16/2015 8:06:42 PM
Subject: BIO Newsletter: April 16, 2015

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BIO 2015 Monday Kickoff Concert

The 2015 BIO International Convention will host a can't miss Kickoff Concert Monday, June 15 featuring Boyz II Men, The Roots and Kool & the Gang. Learn more about the concert and new highlights in our Convention Access & Partnering package. Don't forget, the early bird registration deadline is next Thursday, April 23rd...

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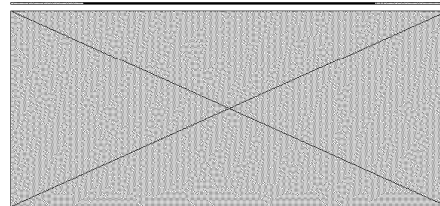
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Sr. Regulatory Specialist,

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Cc: Lschafer@biodiesel.org[Lschafer@biodiesel.org]
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Sent: Tue 4/7/2015 5:38:36 AM
Subject: Fwd: FW: Your Comment Submitted on Regulations.gov (ID: EPA-HQ-OAR-2011-0135-5282)
FINAL NBB Comments tech amendments - QAP 4-6-2015.pdf

Paul, Byron, Mary and Brenton:

The NBB filed the following comments to the the Tier III proposed rule.

If you have questions or would like to discuss, then please contact me accordingly.

Thank you.

Larry Schafer
NBB

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From: Regulations.gov [mailto:no-reply@regulations.gov]
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Agency: Environmental Protection Agency (EPA)

Document Type: Rulemaking

Title: Tier 3 Motor Vehicle Emission and Fuel Standards, Nonroad Engine and Equipment Programs, and MARPOL Annex VI Implementation

Document ID: EPA-HQ-OAR-2011-0135-5282

Comment:

Please find attached the comments of the National Biodiesel Board on EPA's Proposed Rule: Tier 3 Motor Vehicle Emission and Fuel Standards, Nonroad Engine and Equipment Programs, and MARPOL Annex VI Implementation, Docket ID No. EPA?HQ?OAR?2011?0135.

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Submitter's Representative: Anne Steckel

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April 6, 2015

Via Electronic Filing (www.regulations.gov)

Air and Radiation Docket and Information Center
Environmental Protection Agency
Mail code: 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

ATTN: Docket ID No. EPA-HQ-OAR-2011-0135

Re: Amendments Related to: Tier 3 Motor Vehicle Emission and Fuel Standards, Nonroad Engine and Equipment Programs, and MARPOL Annex VI Implementation; Proposed Rule, 80 Fed. Reg. 8826 (Feb. 19, 2015), and Direct Final Rule, 80 Fed. Reg. 9078 (Feb. 19, 2015)

Dear Sir or Madam:

The National Biodiesel Board (NBB) appreciates the opportunity to offer comments on EPA's proposed and direct final rules entitled "Amendments Related to: Tier 3 Motor Vehicle Emission and Fuel Standards, Nonroad Engine and Equipment Programs, and MARPOL Annex VI Implementation," published at 80 Fed. Reg. 8826 and 80 Fed. Reg. 9078 (Feb. 19, 2015) (collectively referred to herein as the "Proposed Rule"). NBB is the national trade association representing the biodiesel industry as the coordinating body for research and development in the United States, founded in 1992. NBB is a comprehensive industry association which coordinates and interacts with a broad range of cooperators, including industry, government and academia. NBB's membership is comprised of state, national and international feedstock and feedstock processor organizations, biodiesel suppliers, fuel marketers and distributors and technology providers. The Proposed Rule purports to make "minor technical amendments," 80 Fed. Reg. at 9084, to correct "typographical errors in regulatory changes finalized in the Voluntary Quality Assurance Program rulemaking"¹ under the Renewable Fuel Standard (RFS2) program. *Id.* at 9078. NBB submits these comments, which EPA should consider adverse, with respect to EPA's proposed changes to the RFS2 product transfer document (PTD) requirements under 40 C.F.R. § 80.1453(a).²

¹ This rulemaking is referred to herein as the "QAP Rule." The final QAP Rule was published at 79 Fed. Reg. 42,078 (July 18, 2014).

² NBB supports the technical changes to 40 C.F.R. § 80.1426(c)(7) and 40 C.F.R. § 80.1471(d)(1) in the Proposed Rule. NBB does not take a position on the remainder of the proposed changes.

1. NBB Opposes EPA's Proposal to Require PTDs Upon Transfer of "Custody or Ownership" of Renewable Fuel.

In the Proposed Rule, EPA states that it is "clarifying the scope of § 80.1453 by adding an exemption to the PTD requirements for renewable fuels dispensed into motor vehicles and nonroad vehicles, engines, and equipment (to include jet engines and home heating units)." 80 Fed. Reg. at 9084. EPA asserts that it is making this clarification because "[w]hen we altered the scope of the PTD requirements at § 80.1453 to include both neat and blended renewable fuels, we did not intend to expand the scope of these PTD requirements to convey the information at § 80.1453 to the consumer of such fuels, *in most cases.*" *Id.* (emphasis added). EPA raised concerns with respect to requiring "PTD language to convey information all the way down to consumers fueling at a retail station or homes receiving heating oil," which EPA found "has little benefit to the effectiveness of EPA's fuels programs and could be quite costly for retail stations and home heating oil distributors." *Id.* But, the regulatory language in the Proposed Rule, in fact, substantially expands the PTD requirements under the RFS2 program, adding unnecessary requirements that could be quite costly for producers and other parties along the supply chain. Such an expansion of these requirements to address an issue that EPA provides no evidence actually exists in practice cannot be considered a "minor technical amendment" and should not have been buried in a rule related to the Tier 3 gasoline regulations. To understand the need and intent behind these changes, further explanation by EPA is required. As such, NBB opposes the change and requests that EPA withdraw the direct final rule.³ If EPA believes that such a "clarification" is necessary, then EPA should re-issue the proposal in a manner that complies with the requirements of the Clean Air Act.⁴

That EPA has significantly changed the PTD requirements is evident by merely looking at the proposed change in regulatory language as illustrated below.

Existing Regulation, in relevant part:

(a) On each occasion when any party transfers ownership of neat and/or blended renewable fuels or separated RINs subject to this subpart, the transferor must provide to the transferee documents that include all of the following information, as applicable: . . .

Proposed "Technical" Amendments (additions in **bold, underline**):

(a) On each occasion when any party transfers **custody or** ownership of neat and/or blended renewable fuels, **except when such fuel is dispensed into motor vehicles or nonroad vehicles, engines, or equipment**, or separated RINs subject to this subpart, the transferor must provide to the transferee documents that include all of the following information, as applicable: . . .

³ Public comments on the QAP Rule expressly opposed applying PTD requirements on custody transfers. See EPA-HQ-OAR-2012-0621-0072 at 5. This change, therefore, could not be considered "noncontroversial."

⁴ NBB notes that the title of the Proposed Rule does not specifically reference the RFS2 regulations, nor is it posted to the RFS2 regulatory page.

The addition of the term “custody” in this case is not a mere technical amendment, but would add a wholly new obligation on producers and other parties along the supply chain. While “ownership” has been delineated by EPA as transfer of *title* to the fuel, *custody* of the fuel may pass through several hands, such as common carriers, terminals, marketers, distributors, storage facilities, to name a few. EPA does not provide an explanation for why these added burdens are necessary, nor why the term “custody” is needed to address the limited concern that EPA purports to be addressing, *i.e.*, PTD requirements to the ultimate consumer of the transportation fuel from retail stations and home heating oil users.

EPA merely states that it is “amending the PTD requirements at § 80.1453(a) to make the scope of these requirements consistent with similar requirements in other fuels programs.” 80 Fed. Reg. at 9084. But, the RFS2 program is different from these other fuel programs. These other programs address emission standards or limitations on the fuel content or characteristics, and someone with custody could alter the fuel itself, affecting compliance with these standards or limitations. *See, e.g.*, 76 Fed. Reg. 44,406, 44,418 (July 25, 2011) (“EPA proposed to include on PTDs language indicating the amount of ethanol in the blend and the summertime RVP standards applicable to the blend *so that downstream marketers can properly label E15 fuel and avoid commingling fuels that could result in RVP and other violations.*”) (emphasis added). Here, the purpose of the PTDs is not to ensure compliance with emissions standards or limitations, but to track RINs associated with that fuel, such as ensuring assigned RINs flow with *ownership* of the fuel, and to protect against non-conforming downstream uses. Only the owner of the fuel can hold assigned RINs or can determine its ultimate use. For example, EPA’s requirements to retire RINs for spillage or disposal of renewable fuel only applies to the “owner of the renewable fuel.” 40 C.F.R. § 80.1432(b). Thus, tracking the custody of the fuel does not have the same implications under the RFS program as it may for these other fuel programs.⁵ EPA cannot simply follow its approach in these other programs without fully considering the goal of the RFS to promote renewable fuel use, the potential implications on renewable fuel producers and their customers, or any differences in the distribution system for renewable fuels.⁶

Because § 80.1453(a) applies to “any party,” rather than “any person,” there is a question as to whether the problem purportedly identified by EPA even exists. Because EPA does not define the term “party” under the RFS2 program, EPA’s purported “minor technical amendment,” now potentially raises questions as to the scope of § 80.1453(a).⁷ Many persons can have “custody” of renewable fuel who are not registered with EPA, and EPA’s apparently broader reading of the term “party” here could potentially increase the number of regulated

⁵ NBB takes no position on the appropriateness of PTD requirements under these other programs or with the exemption as it applies to these other programs, except to the extent NBB believes EPA should ensure that the PTD requirements as they apply to renewable fuel producers should be streamlined to the extent possible. *See* Section 2.

⁶ EPA references the gasoline detergent and E15 programs, but these PTD requirements do not apply to renewable fuel producers. The PTD requirements for detergents at § 80.158 apply to “each occasion when any gasoline refiner, importer, reseller, distributor, carrier, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, distributor, carrier, or blender, transfers custody or title to any gasoline, detergent, or detergent-additized PRC.” 40 C.F.R. § 80.158. The PTD requirements referenced by EPA in § 80.1503 apply to any person that “transfers custody or title to any gasoline-ethanol blend *downstream of an oxygenate blending facility.*” 40 C.F.R. § 80.1503(b)(1) (emphasis added).

⁷ EPA uses the term differently throughout the RFS2 program, sometimes appearing to limit the term to persons participating in the program and, in other cases, expanding it to include other persons. Previously, EPA has not appeared, however, to define it broadly to include any person.

entities under the program dramatically. Thus, NBB opposes the proposed change. While EPA must withdraw the direct final rule with respect to the proposed changes to § 80.1453(a), NBB also believes EPA should not require PTDs for transfers of “custody” of renewable fuel in any final rule.

While NBB does not necessarily oppose an exemption for transfers of PTD requirements to the ultimate consumers of the fuel,⁸ NBB also believes EPA may be required to issue a new proposal that adequately notices and explains the proposed changes. In the Proposed Rule, EPA says its intent was *not* to expand the scope of the PTD requirements to convey the information at § 80.1453 to consumers *in most cases*. The only examples EPA provides, however, are related to transfers to consumers filling up at retail stations or to homes receiving heating oil. The language used by EPA, however, appears broader than these instances, and EPA does not explain when it believes the information should be conveyed to consumers.⁹ Given the lack of explanation provided, NBB does not believe EPA has adequately explored the potential implications of its proposal or explained the basis for its rule, particularly the addition of the term “custody,” as further discussed above. This is contrary to the requirements under the Clean Air Act. 42 U.S.C. § 7607(d)(3) (requiring statement of basis and purpose for proposed rules, including a summary of “(A) the factual data on which the proposed rule is based; (B) the methodology used in obtaining the data and in analyzing the data; and (C) the major legal interpretations and policy considerations underlying the proposed rule”). Thus, to the extent EPA continues to believe the language or exemption is appropriate, it should re-propose the rule to ensure the public has a meaningful opportunity to comment on the terms and basis of EPA’s regulations. 42 U.S.C. § 7607(d)(3), (4), (5); *see also Env’tl. Integrity Project v. EPA*, 425 F.3d 992, 996 (D.C. Cir. 2005) (quoting *Int’l Union, United Mine Workers of Am. v. Mine Safety & Health Admin.*, 407 F.3d 1250, 1259 (D.C. Cir. 2005)).

2. EPA Should Review and Conform the Various PTD Requirements that May be Applicable to Biodiesel.

Rather than impose new burdens on renewable fuel producers as it has proposed, EPA should review the PTD requirements and reduce those burdens. In our comments to the QAP rule we urged EPA to do the following, and we maintain that position today:

EPA has proposed various changes to a product transfer document that must accompany a gallon of renewable fuel. While NBB generally supports clarifications as to the obligations of producers, the product transfer documents now must contain numerous statements under a variety of requirements, which are superfluous in the case of biodiesel and largely unnecessary. As noted above, all biodiesel uses should be qualifying uses under the RFS2 program, and a biodiesel producer *should not* be required to track

⁸ The diesel sulfur PTD requirements may apply to biodiesel producers, and these requirements do not apply “when such fuel is dispensed into motor vehicles or nonroad equipment, locomotives, marine diesel engines or C3 vessels.” 40 C.F.R. § 80.590(a).

⁹ Compare proposed 40 C.F.R. § 80.1453(a) (exempting PTD requirements “when such fuel is dispensed into motor vehicles or nonroad vehicles, engines, or equipment”), with 40 C.F.R. §§ 80.158, 80.1503(b)(1) (including exemption for transfers to “the ultimate consumer”); *id* § 80.1651 (exempting gasoline sulfur PTD requirements “when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility”).

downstream uses or be held accountable for the actions of parties downstream from the facility.

The proposed language under 40 C.F.R. § 80.1453(a)(12), 78 Fed. Reg. at 12,211, would require the following be placed on all product transfer documents for transfer of biodiesel:

“This volume of neat or blended biodiesel is designated and intended for use as transportation fuel, heating oil or jet fuel in the 48 U.S. contiguous states and Hawaii. Any other use in the 48 U.S. contiguous states and Hawaii is a violation of 40 CFR 80.1460(g), unless the requirements in § 80.1433 are met.”

Biodiesel also is subject to product transfer document requirements under the ultra-low sulfur diesel fuel program in addition to the RFS2 program. This may be in addition to any state requirements as well, which may not distinguish between types of downstream uses. EPA should consider whether these statements can be consolidated to address the various regulatory programs without conflicting with potential state requirements. While the definitions for other diesel fuels may be different under the various programs, it is not for biodiesel. Biodiesel is fuel that meets ASTM D 6751. This is the standard that is applicable to biodiesel regardless of its use, although the finished fuel may be subject to another ASTM standard such as heating oil (ASTM D 396). There simply is little need for EPA to require long and overlapping statements on biodiesel PTDs.

In addition, since downstream uses does not invalidate the RIN, there is no need for much of the language being proposed. With the exporter RVO now being triggered upon export, the fuel also does not need to be designated for use “in the 48 U.S. contiguous states and Hawaii.” The last sentence in the proposed new language also may cause more confusion, as to when the RVO for non-qualifying uses is triggered. For example, the first sentence does not necessarily cover neat biodiesel that is intended for use in *blending* into transportation fuel, heating oil or jet fuel. Thus, EPA should clarify and simplify the required statements.

Thus, NBB recommends that EPA require one statement that can cover these various requirements. For example, it should be sufficient to state that: “This volume of fuel is or contains biodiesel for which RINs have been generated under § 80.1426.” For blends, EPA may also require disclosure of the sulfur content to ensure compliance with 40 C.F.R. § 80.590, but should keep in mind all the requirements for PTDs for biodiesel and streamline those requirements to the extent practicable.

NBB April 18, 2013 Comments on QAP Proposed Rule, at 57-58 (EPA-HQ-OAR-2012-0621-0069).

3. NBB Believes EPA Must Respond to the Concerns Raised in its Request for Reconsideration or Clarification of the Final QAP Rule Prior to Deleting the Reference to 40 C.F.R. § 80.1433 Under the RFS2 Regulations.

The Proposed Rule would also remove “the extraneous reference to § 80.1433 in § 80.1453,” promulgated as part of the final QAP Rule. 80 Fed. Reg. at 9084. Section 80.1433 would have required retirement of RINs by parties that re-designate a renewable fuel under the program for invalid downstream uses. *See* 78 Fed. Reg. 12,158, 12,195 (Feb. 21, 2013). This approach was intended “to tighten the requirements for RIN retirement for any party that redesignates a renewable RIN-generating fuel for a non-qualifying fuel use, and to relieve end users of such an obligation,” *replacing* the requirements under 40 C.F.R. § 80.1429(f).¹⁰ As EPA explained, this “places the burden of ensuring an appropriate number of RINs are retired on a party in the fuel distribution business, rather than an end user.” *Id.* In the Proposed Rule, EPA indicates that “[a]fter careful consideration of the public comments received, we chose not to finalize the proposed § 80.1433 requirements.” 80 Fed. Reg. at 9084. EPA also states that it is “publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment.” *Id.* at 9078. But, NBB submitted a Petition for Reconsideration or Clarification to EPA of the final QAP Rule on September 16, 2014. Among other things, NBB expressly raised concerns regarding inconsistent statements in EPA’s preamble regarding treatment of non-conforming downstream uses, leaving the public confused as to the basis of its final rule. The Clean Air Act requires EPA to explain any major changes in the promulgated rule from the proposed rule, and to respond to significant comments, criticisms and new data submitted during the comment period. 42 U.S.C. § 7607(d)(6). EPA failed to do so with respect to how it is now treating nonconforming downstream uses, and it has not provided any further explanation for its purported change in the Proposed Rule here.¹¹

In its comments on the QAP Rule, NBB agreed that renewable fuel producers should not be required to trace the biodiesel produced to its ultimate use and supported clarifying that properly generated RINs remain valid regardless of actions occurring downstream from the producer. Under the final QAP Rule, this can be established by designating their fuel for use in or as transportation fuel, jet fuel, or heating oil on PTDs prior to transfer of the RINs.¹²

To the extent downstream uses are relevant to the RFS program, the RFS2 regulations properly have placed any burden of addressing improper uses on the downstream parties, as opposed to the renewable fuel producer. *See* 40 C.F.R. § 80.1129(e) (“Any obligated party that

¹⁰ Section 80.1429(f) provided: “Any party that uses a renewable fuel in any application that is not transportation fuel, heating oil, or jet fuel, or designates a renewable fuel for use as something other than transportation fuel, heating oil, or jet fuel, must retire any RINs received with that renewable fuel and report the retired RINs in the applicable reports under § 80.1451.” 40 C.F.R. § 80.1429(f) (July 1, 2013). This provision was removed by the final QAP Rule. *See* 79 Fed. Reg. at 42,115.

¹¹ When the grounds for a petition for reconsideration have been met, Section 307(d)(7)(B) of the Clean Air Act requires EPA to “provide the same procedural rights as would have been afforded” in the first instance. 42 U.S.C. § 7607(d)(7)(B). A direct final rule does not provide those same procedural rights. While EPA has issued a proposed rule along with the direct final rule to allow for comment, it has not provided sufficient information for the public to understand the basis for its proposed change in order to meaningfully comment. Thus, NBB does not construe this response to adequately resolve its rights under the reconsideration process. To the extent EPA refuses to convene reconsideration proceedings, NBB has rights to seek judicial review of such refusal. *Id.*

¹² *See, supra* Section 2.

uses a renewable fuel in a boiler or heater must retire any RINs associated with that volume of renewable fuel and report the retired RINs in the applicable reports under §80.1152.”); 75 Fed. Reg. 14,670, 14,724 (Mar. 26, 2010) (“Under RFS1, RINs associated with renewable fuels used in nonroad vehicles and engines downstream of the renewable fuel producer were required to be retired by the party who owned the renewable fuel at the time of blending.”); *see also* 40 C.F.R. § 80.1429(f) (July 1, 2013). In the proposal for the QAP Rule, EPA proposed to tighten the regulations with respect to non-conforming downstream uses, not to eliminate them altogether. 78 Fed. Reg. at 12,195. In fact, its proposal to remove and reserve § 80.1429(f) was predicated on adding § 80.1433. *Id.* Because § 80.1429(f) was removed based on EPA’s decision to establish § 80.1433, as EPA again stated in the final QAP Rule, 79 Fed. Reg. at 42,106, we do not believe a simple technical amendment deleting the reference to § 80.1433 is sufficient to reconcile EPA’s stated intent in the QAP Rule for addressing potentially invalid downstream uses with its final action. While EPA has now purportedly confirmed that it intended not to finalize § 80.1433, it provides no explanation as to whether it intended that RINs not be retired based on downstream activities or its rationale for removing all of these provisions, simply referring to its review of public comments. Thus, the questions raised in NBB’s petition for reconsideration remain.

4. EPA Should Address All of the Issues Raised on the QAP Rule.

Although NBB does not oppose the other technical amendments proposed by EPA in the Proposed Rule regarding the final QAP Rule, it believes that EPA should have addressed all of its concerns with the final QAP Rule. The direct final rule was intended “to expedite the regulatory process to allow the modifications to take effect as soon as possible.” 80 Fed. Reg. at 9078. We agree that the purely technical amendments to 40 C.F.R. § 80.1426(c)(7) and 40 C.F.R. § 80.1471(d)(1) may have been appropriate through a direct final rule, particularly where EPA’s final rule included discrepancies in timing as to when a party must act. But, EPA should consider and address all the concerns that have been raised by the public with respect to the final QAP Rule.

In particular, EPA should consider the concerns associated with provisions that are interrelated together in one setting to understand the potential implications in context, rather than piecemeal or through add-ons to changes to unrelated programs. The proposed amendments to 40 C.F.R. § 80.1453, which were not purely technical, provide an illustration as to why the importance of the issues raised should not be overlooked by treating them as mere “technical” amendments. While NBB does not necessarily object to requiring designation on PTDs upon transfer of the fuel, it does object to requiring the designation on the PTD as a prerequisite to generating RINs under 40 C.F.R. § 80.1426(a). *See* NBB April 18, 2013 Comments on QAP Proposed Rule, at 25-26 (EPA-HQ-OAR-2012-0621-0069). This is unnecessary and, due to the potentially impractical nature of the requirement, can create confusion in the industry. As explained in its petition for reconsideration, EPA failed to respond to NBB’s comments on this issue. Thus, the PTD requirements, as amended by the QAP Rule, have broader implications, and EPA should ensure that it has fully addressed the concerns of the public and consider these issues as a whole and in the context of the RFS2 program.

Thus, NBB again requests that EPA reconsider or provide clarifications to the issues it raised in its petition for reconsideration of the final QAP Rule. The petition is incorporated by referenced and attached as an Exhibit to these comments.

* * *

We are happy to discuss this matter further and address any questions you may have. Thank you in advance for your consideration of these issues.

Respectfully submitted,



Anne Steckel
Vice-President, Federal Affairs
National Biodiesel Board

Enclosure

cc: Byron Bunker, EPA (Bunker.Byron@epa.gov)
Mary Manners, EPA (Manners.Mary@epa.gov)
Brenton Williams, EPA (Williams.Brenton@epa.gov)



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September 16, 2014

Via Electronic and First Class Mail

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code: 1101A
Washington, DC 20460
McCarthy.gina@Epa.gov
Docket: EPA-HQ-OAR-2012-0621

Re: Request for Reconsideration or Clarification of EPA's "RFS Renewable Identification Number (RIN) Quality Assurance Program; Final Rule," 79 Fed. Reg. 42,078 (July 18, 2014)

Dear Administrator McCarthy:

The National Biodiesel Board ("NBB") respectfully submits this Petition for Reconsideration or Clarification of the Final Rule entitled "RFS Renewable Identification Number (RIN) Quality Assurance Program; Final Rule," 79 Fed. Reg. 42,078 (July 18, 2014) (the "QAP Rule"). The QAP Rule establishes a voluntary quality assurance program for the purpose of verifying RINs under the Renewable Fuel Standard ("RFS2") program. It also includes various regulatory provisions related to the treatment of RINs based on activities occurring downstream of a renewable fuel producer. While NBB believes EPA made many positive revisions from the proposed rule, NBB remains concerned that there continues to be unanswered questions or unclear provisions in the QAP Rule requiring reconsideration or, at a minimum, clarification.

NBB is the national trade association representing the United States biodiesel industry. Its membership is comprised of biodiesel producers; state, national and international feedstock and feedstock processor organizations; fuel marketers and distributors; and technology providers. Biodiesel is a key part of the RFS2 program, making up the majority of the advanced biofuel category over the first several years of the program. While NBB has long worked to ensure the integrity of the RFS2 and RIN system, the biodiesel industry took prompt action to work toward

practical solutions to the RIN fraud issues the QAP Rule seeks to address.¹ NBB participated throughout the rulemaking process, including participating in stakeholder meetings on the QAP. In addition, several of NBB's members have engaged pre-approved auditors to verify RINs during the interim transition period and will likely be doing the same under the final rule.

NBB requests reconsideration or clarification on several aspects of the final QAP Rule.

- The final QAP Rule included new provisions to address the export of renewable fuel and retirement of RINs associated with those exports. NBB is concerned with several aspects of the new regulatory language, and believes reconsideration or clarification is warranted to better ensure compliance and transparency.
- While NBB understands that producers are not required to follow the biodiesel they designate for use as transportation fuel, heating oil or jet fuel and agrees that properly generated RINs should remain valid regardless of the actual downstream use, clarification is warranted as to the retirement of RINs by persons downstream of the producer if the fuel is subsequently used for another purpose.
- Given the recent increase in imports and the concerns raised by the public as to whether the requirements of the RFS2 regulations are being met (and enforced) overseas, EPA should reconsider and clarify the application of the quality assurance program to foreign production and imports of renewable fuel. EPA also should clarify and correct the provisions as they relate to foreign auditors.
- The final QAP Rule also does not appear to include provisions with respect to the independence of the auditor conducting the QAPs that EPA recognized as being necessary to ensure the effectiveness of the program. Reconsideration is warranted to clarify the conflicts of interest that must be avoided and to strengthen the requirements to ensure compliance and their enforceability.
- NBB believes further clarification is necessary with respect to the timing of updates to QAPs and an auditor's registration. Also, while EPA agreed that there should be no gaps in coverage while EPA reviews a company's registration renewal, it is not clear how the requirement to annually submit a QAP fits with these other provisions.
- Finally, NBB remains concerned with the new administrative process for addressing potentially invalid RINs. It continues to believe that EPA has not adequately addressed or allowed for corrective actions that may not require retirement of any RINs. A RIN should remain valid if the renewable fuel was produced from renewable biomass, meets one of the approved pathways or petitions, and was sold into commerce for use as or in transportation fuel, heating oil or jet fuel.

¹ In 2012, NBB established a RIN Integrity Task Force, which included representatives of obligated parties, to create a private sector solution to eliminate RIN fraud. The task force was the first to outline what the industry agreed were appropriate elements of a RIN audit. Thus, the industry acted promptly to provide additional assurances to obligated parties and promote RIN integrity.

I. BACKGROUND

A. History of the QAP Final Rule

The RFS2 program under Section 211(o) of the Clean Air Act, 42 U.S.C. § 7545(o), requires certain volumes of renewable fuel be “sold or introduced into commerce in the United States (except in noncontiguous States or territories)”² each year. To implement the RFS2 program EPA established the RIN system. The RIN was intended to be the “credit” for purposes of the required trading program and to serve as the measurement of compliance. 72 Fed. Reg. 23,900, 23,909 (May 1, 2007). RINs are generated by the renewable fuel producer to represent production of renewable fuel. *Id.*; *see also* 40 C.F.R. § 80.1426(a). RINs are assigned to volumes of renewable fuel, and may be separated under certain circumstances to be traded or used for compliance. 40 C.F.R. §§ 80.1426, 80.1429.

Under EPA’s regulations, a RIN is “invalid” under certain circumstances. 40 C.F.R. § 80.1431(a). Invalid RINs must generally be retired or replaced if used for compliance. 40 C.F.R. § 80.1431(b). “These invalid RIN provisions apply regardless of the good faith belief of a party that the RINs are valid. These enforcement provisions are necessary to ensure the RFS program goals are not compromised by illegal conduct in the creation and transfer of RINs.” 72 Fed. Reg. at 23,950; *see also* 75 Fed. Reg. 14,670, 14,733 (Mar. 26, 2010); EPA, RFS2 Summary and Analysis of Comments at 4-43 (Feb. 2010). Nonetheless, in various cases, EPA does allow for remedial actions that allow “invalid” RINs to remain in the marketplace (or used for compliance). *See* 40 C.F.R. § 80.1431(c); *see also* EPA, *RFS2 Remedial Action Guidance*, <http://www.epa.gov/otaq/fuels/renewablefuels/compliancehelp/rfs2remedialactions.htm> (last updated June 19, 2014).

From the start of the program, EPA indicated that the RIN system was one of “buyer beware,” making it incumbent on obligated parties to undertake some due diligence to ensure the RINs purchased were valid. In late 2011 and 2012, EPA announced three enforcement actions related to invalid RINs generated mostly in 2009 and 2010, with some in 2011. Although EPA provided some enforcement relief with respect to the purchasers of these invalid RINs, EPA did take enforcement actions against obligated parties that had relied on these invalid RINs. EPA further recognized that there was a “widespread failure of obligated parties to conduct adequate oversight.” 78 Fed. Reg. 12,158, 12,163 (Feb. 21, 2013).

These cases of fraud led to private party solutions and increased auditing by obligated parties. The quality assurance program proposed by EPA was intended to provide more guidance as to what constitutes appropriate due diligence, so that the industry can understand what may be required rather than face many and varied requests for information and audits. It also sought to provide purchasers of invalid RINs an affirmative defense to limit their liability in light of fraudulent actions by others.

During the development of the proposed rule, EPA also recognized that there was some confusion in the marketplace as to whether certain downstream uses could invalidate an otherwise properly generated RIN, and proposed or requested comment on revisions to the RFS2

² Hawaii has opted into the RFS2 program.

program to address downstream uses. In the proposal, EPA requested comments on various topics, but did not provide proposed regulatory language. *See, e.g.*, 78 Fed. Reg. at 12,165 (seeking comment on participation in QAP program by foreign producers); *id.* at 12,193 (seeking comments on options for addressing export of renewable fuel).

NBB submitted substantial comments on the proposal for the QAP Rule, including comments to ensure the integrity of the RFS2 program and RIN system and to ensure a workable and practical program for producers. EPA-HQ-OAR-2012-0621-0069 (referred to herein as “NBB Comments”). In the final QAP Rule, EPA finalized one QAP program for the verification of “Q-RINs,” which included new provisions intended to strengthen the integrity of the program, such as those related to the independence of the auditor implementing a QAP. EPA also sought to finalize new regulatory provisions to ensure that RINs are retired for all renewable fuel that is exported “and to address RINs that become invalid downstream of a renewable fuel producer.” 79 Fed. Reg. at 42,078.

B. Statutory Provisions Governing Reconsideration

Under Section 307(d)(7)(B) of the Clean Air Act, the Administrator is required to convene a proceeding to reconsider a final rule upon a demonstration that it was impracticable to raise a particular objection to the rule during the period for public comment (but within the time specified for judicial review), if the objection is of central relevance to the outcome of the rule. 42 U.S.C. § 7607(d)(7)(B). Reconsideration petitions may also be an appropriate forum to raise procedural violations. *Id.* § 7607(d)(9); *see also White Stallion Energy Center, LLC v. EPA*, 748 F.3d 1222, 1252 n.5 (D.C. Cir. 2014), *petitions for cert. filed*, 83 U.S.L.W. 3089 (U.S. July 14, 2014) (Nos. 14-46, 14-47, 14-49).

The Clean Air Act requires notice to give the public a meaningful opportunity to comment on the terms and basis of EPA’s regulations. 42 U.S.C. § 7607(d)(3), (4), (5); *see also* 5 U.S.C. § 553(b)(3), incorporated by reference in 42 U.S.C. § 7607(d)(3).

Notice requirements are designed (1) to ensure that agency regulations are tested via exposure to diverse public comment, (2) to ensure fairness to affected parties, and (3) to give affected parties an opportunity to develop evidence in the record to support their objections to the rule and thereby enhance the quality of judicial review.

Env’tl. Integrity Project v. EPA, 425 F.3d 992, 996 (D.C. Cir. 2005) (quoting *Int’l Union, United Mine Workers of Am. v. Mine Safety & Health Admin.*, 407 F.3d 1250, 1259 (D.C. Cir. 2005)); *see also Donner Hanna Coke Corp. v. Costle*, 464 F. Supp. 1295, 1305 (W.D.N.Y. 1979) (“The significance of rulemaking cannot be underemphasized. It gives parties affected by a decision an opportunity to participate in the decision-making process and forces EPA to articulate the bases for its decisions.”) (citation omitted). That EPA may be responding to comments in the final rule may not be sufficient to satisfy the notice and comment requirements of the Clean Air Act. *See McLouth Steel Products Corp. v. Thomas*, 838 F.2d 1317, 1323 (D.C. Cir. 1988) (citing *AFL-CIO v. Donovan*, 757 F.2d 330, 339-40 (D.C. Cir. 1985) and *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 549-50 (D.C. Cir. 1983)).

In addition, the Clean Air Act requires EPA to explain any major changes in the promulgated rule from the proposed rule, and to respond to significant comments, criticisms and new data submitted during the comment period. 42 U.S.C. § 7607(d)(6).

The final QAP Rule included many revisions in response to comments it received, but EPA did not address several significant comments and, even when EPA indicated it was responding to comments, the revisions did not always fully address the changes EPA agreed were necessary or the public's concerns. In addition, the final QAP Rule included new rationalizations and new provisions that the public should have a meaningful opportunity to comment on or that require clarification. Although NBB believes several of these issues may simply be inadvertent errors requiring technical corrections, NBB has submitted this petition for reconsideration and requests that EPA make the appropriate revisions or clarifications.

II. BASIS FOR RECONSIDERATION OF THE FINAL RULE

A. Reconsideration or Clarification is Necessary with Respect to the New Provisions on Export Renewable Volume Obligations.

Under the current RFS2 regulations, properly generated RINs are not rendered invalid if the renewable fuel is exported. Rather, the export of the renewable fuel triggers an obligation to retire RINs. 40 C.F.R. § 80.1430. Compliance with this renewable volume obligation for exports ("ERVO") was done on an annual basis. 79 Fed. Reg. at 42,103. Given some confusion in the industry as to what exports trigger an ERVO, EPA proposed to make certain clarifications to 40 C.F.R. § 80.1430(a) to make clearer that an ERVO is triggered with any export of renewable fuel. 78 Fed. Reg. at 12,193. EPA, however, also sought comment on whether additional changes to the ERVO were necessary, including whether, in the case of exports, RINs should be retired on a shorter time frame than annually. *Id.* Although EPA noted that it "could require the immediate retirement of RINs, at the time of export or within a limited window such as 30 days after export," it did not provide proposed regulatory language. *Id.* EPA also asked whether the deficit carryover provision should be eliminated for exports. *Id.*

In the final QAP Rule, EPA agreed with public comments, including those submitted by NBB, that a shorter time frame for the retirement of RINs related to exports would have advantages in providing greater certainty in the RIN market. 79 Fed. Reg. at 42,104. Although NBB supported this change in its comments, it has concerns with the final regulatory language that it believes EPA should reconsider or clarify through technical corrections. Moreover, EPA did not respond to comments NBB raised with respect to additional revisions necessary to provide greater transparency and to ensure compliance with these requirements.

1. Reconsideration is necessary to ensure compliance with the new ERVO provisions.

While EPA claimed it was moving to a 30-day retirement ERVO, which NBB supports, the regulatory language appears to only require a demonstration of compliance with these requirements on an annual basis and in the same manner as is currently the case.³ While NBB's

³ The final regulatory language states that the exporter "must demonstrate compliance with its ERVOs pursuant to § 80.1427(c)." 79 Fed. Reg. at 42,115 (new 40 C.F.R. § 80.1430(f)). New Section 80.1427(c), in turn,

comments referenced retaining an annual compliance report, such compliance report would have been accompanied by additional revisions to the recordkeeping and reporting requirements and greater transparency. NBB Comments at 54-55. The provisions in the final QAP Rule do not adequately address these issues.

NBB's comments requested additional transparency with respect to obligated parties and exporters to ensure compliance and provide more information to the marketplace. NBB also raised concerns regarding the creation of "shell" corporations to avoid the RIN retirement obligations. NBB Comments at 53. EPA responded that the shorter time frame for retiring RINs will "discourage 'shell corporations'" from being formed to export fuel and then fold before retiring RINs. 79 Fed. Reg. at 42,103. But relying on the annual compliance reports under 40 C.F.R. § 80.1451(a)(1) alone is not sufficient. In particular, the regulations do not provide sufficient transparency to give the market the certainty that was the impetus for the change in the deadline for retirement. For example, 40 C.F.R. § 80.1451(a)(1) includes no requirements to report the information we believe is necessary to determine whether the exporter met the requirements of 40 C.F.R. § 80.1430(f), such as information regarding the dates of export and the amounts of each export. Since it is an annual report, it is not clear how ERVOs are to be reported, per batch or combined for the year as a whole. EPA should reconsider these provisions or provide clarification as to how it anticipates ensuring compliance with the new deadlines for retiring RINs based on export of renewable fuels.

In addition, the final QAP Rule does not address the concerns NBB raised that more transparency is needed regarding exports and the RINs being retired. While EPA provides some data on RIN retirements, there is no information provided on RINs retired for export. *See* EPA, 2014 RFS2 Data: RIN Retirements, <http://www.epa.gov/otaq/fuels/rfsdata/2014emts.htm>. There currently is no separate code in the EMTS for retirement based on export, although EPA recently announced a revised version of the EMTS to be released in October. NBB encourages EPA to make the proper changes to the EMTS to ensure all the information necessary to ensure compliance is required. NBB further encourages EPA to include a table on its EMTS data webpage showing the exports that have been reported and the RINs that have been retired in response. *See* NBB Comments at 55.

2. Reconsideration is warranted to address new regulatory language not made available to the public at the proposal.

NBB supported revising the ERVOs because treating ERVOs the same as the RVOs of obligated parties is inconsistent with the statute. *See* NBB Comments at 54. A shorter time period to retire the RINs provides more certainty as to the amount of RINs available, and better ensures that the volume mandates are being met. Part and parcel of a shorter time frame is that the retired RINs are those generated with and assigned to the fuel or generated contemporaneously with the export.⁴ The final QAP Rule, however, allows up to 20% of the ERVO to be "fulfilled using RINs generated in the year prior to the year in which the RVO was

requires that exporters demonstrate "pursuant to § 80.1451(a)(1)" that it retired RINs in compliance with Section 80.1430(f). *Id.* (new 40 C.F.R. § 80.1427(c)). Section 80.1451(a)(1), however, only requires "annual compliance reports." 40 C.F.R. § 80.1451(a)(1).

⁴ NBB supported 30 days rather than an immediate retirement to give parties a reasonable time period for commercial transactions.

incurred.” 79 Fed. Reg. at 42,115 (new 40 C.F.R. § 80.1427(c)(3)). This language was not noticed, and EPA made no mention of retaining the ability to use prior year RINs if it was to move to a shorter time period for the retirement of RINs for exports in the proposed rule. *See MCI Telecomms. Corp. v. FCC*, 57 F.3d 1136, 1142 (D.C. Cir. 1995) (“More to the point, however, this court has made it clear that an agency may not turn the provision of notice into a bureaucratic game of hide and seek.”) (citations omitted). Further, in the final QAP Rule, EPA provides no explanation for inclusion of this provision. Given the significant differences in the provisions and EPA’s new assessment, it was incumbent on EPA to examine the basis for having this provision with respect to exports and explain that to the public. *See Ne. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936, 948 (D.C. Cir. 2004) (“[A]s we held in *Appalachian Power Co. v. EPA*, [135 F.3d 791, 818 (D.C. Cir. 1998),] the EPA at all times ‘retains a duty to examine key assumptions as part of its affirmative burden of promulgating and explaining a nonarbitrary, non-capricious rule,’ and therefore must justify its basic ‘assumption[s] even if no one objects ... during the comment period.’”); *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 521 (D.C. Cir. 1983) (finding EPA cannot “ignore the procedural requirements of §307(d),” even if the agency “gives a decent reason for doing so”).

Allowing prior year RINs to be used to meet ERVOs undermines the purpose of the 30-day period for retirement, which is to address uncertainty as to the size of the export market and RIN availability. Indeed, EPA recognized that a shorter time frame would “reduce incentives for exporters to profit from selling RINs received with renewable fuel to obligated parties at a time of high RIN prices and then purchasing and retiring RINs to meet their RVO when prices drop.” 79 Fed. Reg. at 42,104. EPA also recognized that the ERVO is intended to ensure RINs are retired so the RINs generated for fuel that is to be exported “do not artificially inflate the RIN market and misrepresent the amount of renewable fuel produced for domestic use.” *Id.* at 42,102. If the purpose of the shorter time frame is to provide greater certainty in the RIN market and to ensure domestic use to meet the annual volume mandates, it makes no sense to also allow exporters to use prior-year RINs to meet the ERVOs. While EPA may claim that the 20% provision currently applies, the public has consistently raised concerns that allowing prior year RINs to be used to establish compliance with the volume mandates was improper under the statute. Moreover, the provision was intended to provide obligated parties flexibility to address potential shortages of RINs. Here the ERVO is intended to remove RINs out of the system that do not represent renewable fuels that are being used domestically. It was up to EPA to provide notice to the public and explain why the provision was still relevant, not to the public to anticipate its retention and argue against it.

EPA also included a new provision that exempts certain exports of renewable fuel for which no RINs were generated: “No provision of this section applies to renewable fuel purchased directly from the renewable fuel producer and for which the exporter can demonstrate that no RINs were generated through the recordkeeping requirements of § 80.1454(a)(6).” 79 Fed. Reg. at 42,115 (new 40 C.F.R. § 80.1430(a)(1)). The recordkeeping requirement includes an affidavit signed by the producer of the exported renewable fuel affirming that no RINs were generated for that volume of renewable fuel. *Id.* at 42,118 (new 40 C.F.R. § 80.1454(a)(6)(i)). NBB submitted comments that, if EPA were to provide for such an exemption, additional requirements were necessary so that EPA can better track fuel production and RIN generation. NBB Comments at 53. EPA did not respond to these comments and merely requiring the exporter to retain an affidavit from the producer is not sufficient.

3. An additional technical amendment to the provisions on ERVOs may be warranted.

NBB appreciates EPA's efforts to clarify that the export of any amount of renewable fuel under the program triggers an ERVO, as it explained in the proposal.⁵ However, in the final QAP Rule, EPA used a different formulation than in the proposal, applying the ERVO to "[a]ny exporter of renewable fuel, whether in its neat form or blended." 79 Fed. Reg. at 42,115 (new 40 C.F.R. § 80.1430(a)(1)). This is similar to the formulation that caused confusion in the first instance. EPA does not explain why it changed from the proposed rule. NBB suggests that EPA retain the reference to "any amount" of renewable fuel, whether in its neat form or blended.

B. EPA Must Clarify its Intention with Respect to the Treatment of RINs When Renewable Fuel is Subsequently Redesignated for a Non-Qualifying Fuel Use.

In the proposed rule, EPA sought to address concerns that non-qualifying downstream uses may invalidate a properly generated RIN. 78 Fed. Reg. at 12,193. NBB supported clarifying that properly generated RINs remain valid regardless of actions occurring downstream from the producer.

Section 80.1429(f) of the existing regulations provides that any person who uses or designates a renewable fuel for an application other than transportation fuel, heating oil or jet fuel (i.e., a non-qualifying fuel use) must retire any RINs received with that renewable fuel.⁶ 40 C.F.R. § 80.1429(f). EPA proposed to tighten the requirements for RIN retirement for any party that redesignates a renewable RIN-generating fuel for a non-qualifying fuel use, and to relieve end users of such an obligation. 78 Fed. Reg. at 12,195. EPA then proposed to remove and reserve paragraph 80.1429(f) of the regulations and add a new Section 80.1433 to require parties that designate fuel for which RINs were generated for a non-qualifying fuel use to retire an appropriate number and type of RINs. *Id.*

However, the final QAP Rule appears to not include any provisions to require the retirement of RINs when the fuel is redesignated for a non-qualifying use. NBB believes EPA intended to and should retain some requirement to retire RINs for renewable fuel used for a non-qualifying purpose. But, the final regulatory language includes no provisions for such retirement.

EPA's intent is hard to discern from the preamble. First EPA states:

Having added the requirements for 'intended use' PTD language to accompany all volumes of renewable fuel for which RINs were generated and new requirements for tracking and recordkeeping of

⁵ The proposal would have provided that "[a]ny party that owns any amount of renewable fuel, whether in its neat form or blended, that is exported ..." incurs an ERVO. 78 Fed. Reg. at 12,208 (proposed 40 C.F.R. § 80.1430(a)).

⁶ "Designation" of fuels for particular uses may implicate other provisions regulating fuels (e.g., ULSD regulations). EPA should clarify whether and how the designation of fuel for purposes of the RFS2 program coincides with designations under other fuel programs.

actual end use for fuels not traditionally used for a qualifying use, we feel that the program goal of ensuring appropriate end use is already addressed and managed through the regulations. *We are therefore not finalizing the proposed § 80.1433 and conforming prohibited act provision for sellers and transferors of RIN-generating renewable fuel.*

79 Fed. Reg. at 42,106 (emphasis added). Later on that same page, however, EPA states that it “proposed and [is] finalizing new requirements for any party that redesignates a renewable RIN-generating fuel for a non-qualifying fuel use”:

To accomplish this, we are removing and reserving § 80.1429(f) of the regulations and adding a new § 80.1433 to require parties that designate fuel for which RINs were generated for a non-qualifying fuel use, i.e. for something other than transportation fuel, heating oil, or jet fuel, to retire an appropriate number and type of RINs. We are also adding a new section 80.1460(g) which prohibits a person from designating a qualifying renewable fuel for which RINs were generated for a non-qualifying fuel use, unless the requirements of § 80.1433 have been met, i.e. an appropriate number and type of RINs were retired when the fuel was redesignated. These changes will relieve end users of the obligation to retire RINs.

Id. The regulatory language does remove 40 C.F.R. § 80.1429(f) and includes a reference to 40 C.F.R. § 80.1433 in the new provisions under 40 C.F.R. § 80.1453(a)(12), though no such provision currently exists. Thus, it is not clear from the regulatory language or the preamble what EPA intended to finalize. In short, EPA must reconsider whether the regulatory language effectuates the requirements as EPA intended. At a minimum, EPA should provide clarification as to any requirements for retirement of RINs based on downstream activities and its rationale for any changes from the proposal.

C. EPA Should Reconsider or Further Clarify Certain QAP Provisions.

1. EPA should reconsider the provisions of the QAP as they relate to foreign production and imports of renewable fuels.

In the proposed rule, EPA stated that the QAP being proposed “would also apply to RINs generated for foreign-produced renewable fuel.” 78 Fed. Reg. at 12,165. EPA stated that, to be verified, the associated foreign renewable fuel production facility must be audited under an EPA-approved QAP. *Id.* EPA asked for comment on any issues that could affect the integrity of the proposed program. *Id.* EPA also sought comment on whether additional requirements for registration of foreign third-party auditors were necessary. *Id.* at 12,189. Further, EPA asked for “comment on possible additional program elements that may only be applicable to foreign producers.” *Id.* at 12,191. The public did provide comments on these issues. While EPA recognized that a QAP for foreign production of biofuels requires additional elements, the final QAP Rule does not incorporate provisions necessary to ensure these requirements are met.

Moreover, EPA's response to public comments was inadequate, as illustrated by new information since the close of the comment period. As such, reconsideration is warranted to clarify the required elements of a QAP for foreign producers and importers.

a. The final QAP Rule does not clearly identify necessary elements of a QAP for foreign producers and importers.

First, the preamble to the final QAP Rule states that RINs for imported renewable fuel will not be considered verified unless both the foreign production facility and the importer are audited under the same EPA-approved QAP. 79 Fed. Reg. at 42,091. NBB agrees. *See* NBB Comments at 22. However, this requirement does not appear to be reflected in the regulations. Even if EPA intends to only approve QAPs that provide as much (which is not clear from the regulations), the registration, recordkeeping or reporting requirements do not provide sufficient assurances that parties will comply with these requirements. Some examples follow.

- ☐ For registration, Section 80.1450(g) requires the auditor to submit names of “producer[s]” to be audited, an affidavit or electronic consent from each such producer reflecting their intent to be audited, and an affidavit stating the auditors independence from “producer[s].”⁷
- ☐ For reporting, Section 80.1451(g) references reports for “each facility audited.” Facility is defined under the RFS2 regulations as the production facility, not including the importer’s facility.⁸ 40 C.F.R. § 80.1401.
- ☐ For recordkeeping, Section 80.1454(m) references numerous documents, such as “[c]opies of communications sent to and received from renewable fuel producers or foreign renewable fuel producers, feedstock suppliers, purchasers of RINs, and obligated parties,” but they do not reference documents that would be from or held by importers.

Similarly, the preamble notes that EPA is finalizing the proposed additional registration requirements for foreign third-party auditors. 79 Fed. Reg. at 42,097. EPA's proposal indicated it was including similar requirements it imposes on other foreign entities participating in the program, including submitting reports in English and providing translated documents in English upon demand from EPA inspectors or auditors; submitting themselves to administrative and judicial enforcement powers and provisions of the United States without limitation based on sovereign immunity; and posting a bond covering a portion of the gallon-RINs that a foreign RIN owner owns. 78 Fed. Reg. at 12,189. While NBB generally agreed with the proposal,⁹ NBB's comments questioned whether EPA included proposed regulatory language. NBB Comments at 41. EPA did not respond to these comments, and these “additional requirements”

⁷ NBB also believes reconsideration is warranted with respect to the provisions on the independence of an auditor as further described below.

⁸ While EPA does require the importer facility ID, the lack of QAP elements with respect to the importer illustrates that the regulations are not clear as to requiring an audit of the importer as well as the foreign producer.

⁹ NBB believes the bond requirements currently in the regulations are insufficient.

still do not appear to be in the regulatory text. At a minimum,¹⁰ it is essential that foreign auditors submit themselves to administrative and judicial enforcement powers and provisions of the United States without limitation based on sovereign immunity. While NBB understands that EPA is still reviewing the bond requirements for foreign producers and foreign RIN owners,¹¹ EPA must also make sure there is some available recourse against foreign auditors. The importance of this issue warrants reconsideration.

Finally, while EPA recognizes that a QAP with respect to foreign production of biofuels will include additional elements, the final QAP Rule does not expressly outline those elements. In its comments, NBB specifically outlined its concerns whether the QAP provides sufficient assurances that the feedstocks used sufficiently qualify for the program. NBB Comments at 22. NBB's comments also referenced the additional regulations as they relate to foreign producers at 40 C.F.R. §§ 80.1465, 80.1466 and 80.1467. *Id.* In the preamble to the final QAP Rule, EPA appears to agree that the QAP for foreign production of renewable fuels will include numerous additional elements:

[A]n auditor verifying production for a foreign RIN generating producer will need to ensure that the recordkeeping and bond requirements under §§ 80.1466 and 80.1467 are being met. It will also include verifying any certificates of fuel transfer, as well as port of entry testing, none of which are required for domestic RIN generation. This is by no means an exhaustive list, but rather an example to show that there may be significant differences in the requirements to verify a RIN, based on the location of the producer and the type of RIN generation. *With these additional requirements*, we believe foreign-produced RINs verified through a QAP can be treated in the same manner as any RINs verified from domestically produced fuel.

79 Fed. Reg. at 42,091 (emphasis added). Again, what EPA has recognized to be necessary appears to only be memorialized as aspirational goals.

NBB fully supports EPA's decision to finalize only one QAP, but the elements of the final QAP still do not appear to account for the additional recordkeeping requirements required for foreign renewable fuel producers and foreign RIN owners noted above, including those under 40 C.F.R. §§ 80.1466 and 80.1467. While the QAP includes general "RIN generation-related components," the audit requirements appear to focus on the producer level. The preamble states only that the auditor must determine if there is any import or foreign biofuel producer documentation, but the regulatory provisions do not expressly address the additional requirements for RIN generation for imports, particularly those under 40 C.F.R. § 80.1466.¹²

¹⁰ EPA finalized general provisions requiring that any registration information, reports and records submitted to EPA include an English translation in a separate rulemaking. 79 Fed. Reg. 42,128, 42,154 (July 18, 2014). But, EPA provides no explanation in the final QAP Rule as to why it has not finalized the other "proposed" provisions.

¹¹ See 79 Fed. Reg. at 42,128.

¹² For example, the regulations provide that no foreign producer and importer may generate RINs for the same volume of renewable fuel and that a foreign producer of renewable fuel is prohibited from generating RINs in excess of the number for which the bond requirements of this section have been satisfied. 40 C.F.R. § 80.1466(j).

Indeed, EPA states that it “does not intend to place any additional burdens on foreign producers above what is required for domestic producers,”¹³ 79 Fed. Reg. at 42,091, but EPA cannot ignore the additional requirements already in the regulations. Similarly, the requirements for audits only references “a review of documents *generated by the renewable fuel producer*.” 79 Fed. Reg. at 42,122 (new 40 C.F.R. § 80.1472(a)(4)) (emphasis added). The requirement for on-site visits also only references “the renewable fuel production facility.” *Id.* (new 40 C.F.R. § 80.1472(b)(3)). This focus does not ensure that the regulations are being met on the importer side. EPA did not respond to comments on these issues. For all these reasons, EPA must reconsider the provisions in the QAP Rule as they relate to foreign production and importation of renewable fuels.

b. New information supports reconsidering the QAP provisions as they apply to foreign produced biofuels.

In its comments, NBB proposed that each gallon of imported renewable fuel be validated through the highest level QAP, where each gallon produced and each RIN are validated through a real time monitoring system. NBB Comments at 21-23. NBB also noted that additional requirements with respect to imported renewable fuel may be warranted, regardless of who generates the RIN. *Id.* New information supports the concerns NBB raised with respect to EPA’s ability to adequately oversee foreign entities (except those in Canada¹⁴).

NBB has long been concerned with whether and how EPA is enforcing the renewable biomass requirements for feedstocks used outside of the United States, such as palm oil or palm oil derivatives and soybean oil from Argentina and Brazil used to produce biodiesel. These concerns stem from the difficulties in enforcing against foreign entities, which EPA has admitted. These countries also do not have the same history of land use as the United States and Canada, where agricultural lands have declined or remained steady for years.¹⁵ New information provides further support that EPA should reconsider these provisions.

Based on data made available after the close of the comment period, the amount of biodiesel and renewable diesel being imported has steadily increased. In 2012, around 145 million biomass-based diesel RINs were generated by importers and foreign producers. EPA, 2012 RFS2 Data: RIN Generation by Producer Type, <http://www.epa.gov/otaq/fuels/rfsdata/2012emts.htm> (data current as of August 7, 2014). In 2013, over 550 million biomass-based diesel RINs were generated by importers and foreign producers. EPA, 2013 RFS2 Data: RIN Generation by Producer Type, <http://www.epa.gov/otaq/fuels/rfsdata/2013emts.htm> (data current as of August 7, 2014). Through July 2014, over 300 million gallons of biomass-based diesel RINs already have been generated by importers and foreign producers. EPA, 2014 RFS2 Data: RIN Generation by

¹³ NBB also notes that the QAP is *voluntary*, but the entire purpose of the QAP is to provide assurances that the RINs were generated consistent with the regulations.

¹⁴ EPA has approved an aggregate compliance approach for Canada, and transport of goods across the border does not raise the same concerns as when they are shipped in from overseas.

¹⁵ Recent reports illustrate that land use protections in other countries (outside the United States and Canada) are insufficient. See, e.g., Marcelo Teixeira, *Brazil Confirms Amazon Deforestation Sped Up in 2013*, Scientific American (Sept. 10, 2014), <http://www.scientificamerican.com/article/brazil-confirms-amazon-deforestation-sped-up-in-2013/>.

Producer Type, <http://www.epa.gov/otaq/fuels/rfsdata/2014emts.htm> (data current as of August 7, 2014). Foreign generation of D6 RINs, which was zero in 2012, has also substantially increased.¹⁶

NBB is also concerned with the lack of transparency of EPA's enforcement (if any) of the renewable biomass provisions for imported fuels. NBB raised concerns to EPA in December of 2013 as to EPA's ongoing review of a proposal from Argentina to use the alternative tracking method for establishing the renewable biomass requirements, including the lack of public notice and comment. NBB has also recently heard that imports from Argentina are relying on very limited documentation to establish compliance with the map and track requirements of the RFS2 regulations. This apparent lack of enforcement further calls into question whether a QAP should be mandatory for imported renewable fuels or additional requirements should be considered by EPA with respect to foreign production of renewable fuels and their importation.

Our major concern is that feedstock from the imported volumes is not being properly monitored by the EPA. Under the RFS2, in order to qualify for the program and generate RINs, biofuels are required to meet a number of feedstock requirements, including but not limited to, specific mapping and tracking of feedstock to ensure that it meets the sustainability requirements of the program. We are not aware of EPA reviewing, verifying or approving any documentation that meets regulatory requirements to support feedstocks being used to generate RINs on imported gallons.

c. The concerns raised by NBB warrant further investigation by EPA and further rulemaking.

In its comments, NBB outlined additional provisions that it believes would strengthen EPA's ability to enforce against foreign production of renewable fuels. These included imposing additional requirements to review documentation from the foreign producer, the exporter in the foreign country (if different), and the importer itself once the fuel reaches the United States; and strengthening the RIN replacement provisions for invalid RINs associated with imported fuels by having the domestic purchaser of the imported fuel be in line to replace any invalid RIN.¹⁷ EPA did not respond to these comments. As noted above, new information calls into question whether the existing regulations are sufficient to protect against fraud overseas. EPA should reconsider these provisions, and, if necessary, initiate a new rulemaking proceeding.

2. EPA should reconsider the provisions on the independence of third-party auditors to ensure they effectuate the intent of EPA as outlined in the preamble and sufficiently address the concerns raised by public comments.

EPA has recognized that the "first, and perhaps the most important, requirement for auditors is that they remain independent of renewable fuel producers." 78 Fed. Reg. at 12,187.

¹⁶ Much of this RIN generation is associated with biodiesel and renewable diesel from grandfathered facilities. Such facilities must still use feedstock that meets the renewable biomass definition and must comply with the registration, reporting and recordkeeping requirements.

¹⁷ NBB also suggested increasing the bond requirements. As noted above, NBB understands EPA is still reviewing proposed revisions to the bond, and, thus, does not address these here.

The public “overwhelmingly agreed that ensuring the independence of third-party auditors is paramount to the successful implementation of effective QAPs.” 79 Fed. Reg. at 42,092. In the preamble to the final QAP Rule, EPA agreed that the conflict of interest provisions in the proposal were insufficient and that additional provisions to ensure objective audits were necessary. But, these changes do not appear to be reflected in the regulatory language. Moreover, the final QAP Rule does not include sufficient provisions to enforce these requirements. Further, EPA did not adequately respond to comments that it must protect against conflict of interests with respect to *all* RIN owners, not just producers (as in the proposed rule) and obligated parties (as added in the final rule). Finally, the public could not comment on the new, broad provision the final QAP Rule includes to protect against the “appearance” of conflict, which may cause confusion in the industry. Thus, reconsideration is warranted to ensure these provisions are sufficient to protect against conflicts of interest.

First, although EPA agreed that there was a potential for conflicts of interest to arise with obligated parties, 79 Fed. Reg. at 42,092-42,093, the final QAP Rule includes only one, limited provision to address these conflicts. The preamble states that the final QAP Rule requires “QAP auditors be independent from obligated parties *the same way they are required to be independent from the RIN generator.*” *Id.* at 42,093 (emphasis added). But, the only restriction with respect to obligated parties in the final QAP Rule is that they cannot own or operate the third-party auditor. 79 Fed. Reg. at 42,122 (new 40 C.F.R. § 80.1471(b)(2)). Thus, the conflict of interest provisions with respect to obligated parties are not, as the preamble states they should be, parallel to those with respect to renewable fuel producers. As the public commented, third-party auditors should be independent from obligated parties, as obligated parties obtain benefits from the RINs being verified. Third-party auditors also may verify the obligated parties’ compliance with the RFS, providing further incentives to verify RINs that may not be valid. NBB believes this is an oversight and requires technical corrections to ensure that the independent third-party auditor be “free from any interest or appearance of any interest” with obligated parties. If not an oversight, EPA provides no explanation as to why the regulations are so limited, and, thus, reconsideration may be necessary in order to correct this procedural infirmity. Such infirmity is key to ensuring an effective QAP and, thus, is central to the final QAP Rule.

Second, although EPA expanded the conflict of interest provisions in the final QAP Rule, it did not include provisions to ensure compliance. At registration, the proposed rule required an affidavit stating “that an independent third-party auditor is independent . . . of any renewable fuel producer or foreign renewable fuel producer.” 78 Fed. Reg. at 12,209 (proposed 40 C.F.R. § 80.1450(g)(7)). Although EPA applied the conflict of interest provisions beyond producers in the final rule, the regulations do not require an affidavit that reflects this broader scope, still only requiring an affidavit stating the auditor’s (and now its contractors and subcontractors) independence from “any renewable fuel producer or foreign renewable fuel producer.” 79 Fed. Reg. at 42,116 (40 C.F.R. § 80.1450(g)(7)). This affidavit also does not require any evidence that the auditor is or is not providing additional services under the RFS2 program, which the final QAP Rule also purports to guard against. Again, this may have been an oversight by EPA, but EPA provides no explanation as to why it is only requiring an affidavit regarding the auditor’s independence from producers or how it intends to enforce the new conflict of interest provisions in the final QAP Rule.

In addition, public comments indicated that an affidavit from the auditor was not sufficient to ensure independence. *See, e.g.,* NBB Comments at 13. Comments suggested that EPA “expand the affidavit requirement to include any documentation to support statements in the affidavit and make clear that the affidavit must be under oath. Such an approach would allow the EPA to go under the covers of the affidavit statements to ensure that all potential conflicts of interests are disclosed.” 79 Fed. Reg. at 42,097. EPA responded that the affidavit requirement “is an important piece of registration and potentially valuable if we have to pursue actions arising from alleged conflicts of interest.” *Id.* But, EPA does not explain why the current provisions requiring a simple affidavit are sufficient to ensure compliance. Moreover, the final QAP Rule does not appear to consider whether other registration, recordkeeping or reporting provisions similarly should be expanded to other information needed for EPA to confirm compliance. In order to ensure the requirements have any teeth, they must be enforceable.

Third, EPA did not respond to comments that it should address potential conflicts of interest that may arise with respect to relationships between auditors and other RIN owners. *See* NBB Comments at 38-39. EPA has agreed that “by interpreting conflict of interest more broadly, we will raise the standard of independence in the QAP program to a higher level than that seen in other portions of the EPA regulations, especially considering the importance of maintaining an effective QAP.” 79 Fed. Reg. at 42,093. But, the final QAP Rule only addresses potential conflicts of interest with renewable fuel producers and obligated parties. Relationships with other RIN owners also could lead to a potential conflict of interest that “may inhibit an auditor’s ability to effectively implement a QAP.” 79 Fed. Reg. at 42,092. This is because such conflicts can create “an incentive to ignore potential issues because they have a financial interest in whether RINs are valid.” *Id.* “[A] third-party auditor could also be acting on behalf of a *RIN-owner*, which may be an incentive to validate RINs fraudulently to sell to other parties.” 78 Fed. Reg. at 12,187 (emphasis added). EPA also has recognized that auditors have access to confidential business information from RIN generators that can lead to speculation. 79 Fed. Reg. at 42,092. Nonetheless, EPA limited the expansion of the provisions to obligated parties, providing no explanation as to why it was not addressing these other potential and recognized conflicts.

Finally, in the final QAP Rule, EPA included a new restriction that the third-party auditor avoid the “appearance” of conflict. This provision is intended to address whether there should be additional restrictions on the types of services third-party auditors could provide under the RFS2 program. 79 Fed. Reg. at 42,093. While EPA sought comment generally on this issue, 78 Fed. Reg. at 12,187, 12,190, it did not propose to prohibit a broader (and somewhat ambiguous) “appearance” of conflict. NBB believes the regulation should be corrected to draw clear lines as to what services an auditor may or may not provide. Such services should also not necessarily be limited to those provided to producers. Reconsideration is warranted to give the public an opportunity to consider and meaningfully comment on what additional services to other parties under the RFS2 (such as attesting to compliance) also presents an “appearance” of conflict that are not addressed in the final QAP Rule.

3. Further clarification as to when updates to an auditor's registration are necessary versus updates to QAPs.

The final QAP Rule requires auditors to register with EPA and renew their registration on an annual basis. It also requires updates to the auditor's registration. 79 Fed. Reg. at 42,116 (new 40 C.F.R. § 80.1450(g)(9)). The provisions for updating an *auditor's* registration, however, refer to the *producer's* registration and the *producer's* facility. There are also references to the need to update a producer's QAP. But, the regulations already provide for "revisions of a QAP" when changes are made to a producer's facility with no reference to how these revisions interact with the required registration updates. *Id.* at 42,121 (new 40 C.F.R. § 80.1469(f)). This also raises questions as to timing, as it is unclear whether the QAP must be submitted with registration updates, annually or only when changes are made at a facility that is audited. Compare new 40 C.F.R. § 80.1450(g)(9) with new 40 C.F.R. § 80.1469(e), (f). NBB's comments noted the inconsistencies with these provisions, which were not addressed by EPA in the final QAP Rule. Moreover, while the final QAP Rule does provide that the auditor's registration renewal process is automatic unless it received a notice of deficiency, which avoid gaps in coverage, EPA did not make a similar clarification as to the annual approval of QAPs.

First, it is unclear why certain of the provisions regarding updating an auditor's registration information are tied to activities at a production facility. New Section 80.1450(g)(9) provides as follows:

- (9) Registration updates—(i) Any independent third-party auditor who makes *changes to its quality assurance plan(s)* that will allow it to audit new renewable fuel production facilities, as defined in § 80.1401 that *is not reflected in the producer's registration information* on file with the EPA must update its registration information *and submit a copy of an updated QAP* on file with the EPA at least 60 days prior to producing the new type of renewable fuel.
- (ii) Any independent third-party auditor *who makes any other changes to a QAP* that will affect the third-party auditor's registration information *but will not affect the renewable fuel category for which the producer is registered* per paragraph (b) of this section must update its registration information 7 days prior to the change.
- (iii) Independent third-party auditors must *update their QAPs* at least 60 days prior to verifying RINs generated by a renewable fuel facility *uses a new pathway*.
- (iv) Independent third-party auditors must *update their QAPs* at least 60 days prior to verifying RINs generated by any renewable fuel facility not identified in their existing registration.

79 Fed. Reg. at 42,116 (new 40 C.F.R. § 80.1450(g)(9)) (emphasis added). It is unclear how a producer's registration relates to the need for the auditor to update its registration under clause (i), or more important why such update is tied to the facility's production of renewable fuel. The QAP is voluntary and totally unrelated to a producer's ability to produce fuel under the RFS2 program. With respect to clause (ii), it is unclear how any changes to a QAP will affect the renewable fuel category for which *a producer* is registered. Clause (iii) makes no grammatical sense, and it is unclear how it is intended to be different than clause (i). NBB does not take issue with whether updates to a registration are necessary, but the provisions are not clear and can create confusion. The update requirements also could be simplified to require a registration update whenever the information required under Section 80.1450(g)(1)-(8) becomes incomplete, is determined to be inaccurate, or when a QAP requires revision under Section 80.1469(f).¹⁸ EPA could still retain a specific provision requiring updates anytime an auditor signs a new facility to its audit program to ensure the appropriate affidavits are on file with EPA 60 days prior to verifying any RINs, as other changes may not require a 60-day lead time. But, the provision, as currently written, is confusing and may not address key pieces of information required as part of an auditor's registration, such as new facilities becoming subject to an audit and the auditor's independence.

Second, while referring to "registration updates," each of the provisions under Section 80.1450(g)(9) references updates or changes to the QAPs. But, elsewhere in Section 80.1469(e) and (f) EPA provides for the annual submission of QAPs and revision of QAPs. NBB noted that the proposed rule was unclear as to how the QAP annual approval process was different from the requirement that the auditor undergo an annual renewal registration.

The requirement to revise a QAP does not cross-reference the need to update an auditor's registration, although it appears that some of the triggers for such updates are similar to the triggers for a revised QAP. A revised QAP must be submitted to EPA when:

any of the following changes occur at a production facility audited by a third-party independent auditor and the auditor does not possess an appropriate pathway-specific QAP that encompasses the changes:

(i) Change in feedstock.

(ii) Change in type of fuel produced.

(iii) Change in facility operations or equipment that may impact the capability of the QAP to verify that RINs are validly generated.

79 Fed. Reg. at 42,121 (new 40 C.F.R. § 80.1469(f)). While EPA outlines timing for "registration updates," there are no similar deadlines under 40 C.F.R. § 80.1469(f) and no cross-reference to the deadlines in Section 80.1450(g)(9). The final QAP Rule does not address these questions and, thus, the provisions remain confusing, requiring, at a minimum, clarification from EPA as to how these provisions are intended to interact with each other.

¹⁸ The annual registration renewals do require updated information, but certain changes should be brought to EPA's attention as soon as possible.

Finally, EPA has indicated that an approved QAP is necessary for the verification of any RINs, but that a QAP is only valid for one year. NBB commented that EPA should provide sufficient time before a QAP expires to review and approve the QAPs to ensure no gaps in coverage for the participating parties or that EPA should provide a type of “permit shield” for RINs being verified pending EPA’s approval.¹⁹ NBB Comments at 43-44. EPA agreed that the registration renewal process should not cause a gap in coverage, allowing registrations to be automatically renewed unless EPA issues the auditor a deficiency. 79 Fed. Reg. at 42,097. But EPA did not respond to similar comments regarding the QAP approval process. EPA should clarify that this is the same for the QAP approval process (so long as the QAP has not changed and it still covers the activities at the facility).

D. EPA Did Not Adequately Respond to Comments Regarding the Administrative Process for the Identification and Treatment of “Potentially Invalid RINs.”

EPA finalized a self-implementing administrative process for the replacement of RINs determined to be invalid, *i.e.*, potentially invalid RINs. These provisions are largely as proposed except EPA indicated it was extending the time to provide notification to EPA of potentially invalid RINs from 24 hours to five days, and clarified that QAP-verified RINs found invalid may be replaced by any type of RIN, so long as it is of the same D code (in other words, the replacement RIN should be valid, but need not also be a QAP-verified RIN). 79 Fed. Reg. at 42,085. As an initial matter, NBB notes that there appear to be conflicting provisions with respect to when an auditor must report a RIN that it believes may have been invalidly generated. Section 80.1471(d)(1) requires that the auditor provide notification to EPA and the producer that generated the RIN “within the next business day.”²⁰ 79 Fed. Reg. at 42,122 (new 40 C.F.R. § 80.1471(d)(1)). Section 80.1474(b)(3) requires notification within five business days. *Id.* at 42,124 (new 40 C.F.R. § 80.1474(b)(3)). EPA does not explain the distinction, if any, between these two provisions. It is possible that this was also a mere oversight, but a technical amendment may be necessary to remove 40 C.F.R. § 80.1471(d) to avoid any confusion between the varying requirements in these provisions.

More important, however, is that EPA failed to adequately respond to comments that RIN replacement may not be necessary for every “potentially invalid RIN.” NBB commented that the administrative process does not adequately distinguish between clear cases of fraud, which should be enforced, and inadvertent errors, which should be corrected. NBB Comments at 37. These concerns are exacerbated by the revisions to 40 C.F.R. § 80.1426(a), which could result in a mere paperwork violation rendering a RIN invalid. NBB Comments at 25-26. EPA has recognized that there are several errors that, through no fault of the producer, may result in the generation of invalid RINs. 77 Fed. Reg. 1320, 1344-1345 (Jan. 9, 2012). EPA has provided a process to correct such RINs in the regulations, *see* 40 C.F.R. § 80.1431(c), and through guidance. In response, EPA merely stated that “the RIN generator has 30 days upon identification or notification of a PIR to take a corrective action, *which still includes the remedial*

¹⁹ NBB does not dispute that RINs cannot be verified for a new pathway until a new pathway-specific QAP is approved by EPA. However, EPA should clarify, when a QAP has not changed, that any delay in EPA’s approval of the QAP does not affect the facilities being audited.

²⁰ As noted above, the QAP provisions should be clear to also include any importer that must also be subject to the QAP requirements for a RIN associated with imported renewable fuel to be verified.

actions currently available to industry.” 79 Fed. Reg. at 42,086 (emphasis added). But, the regulations only provide for two corrective actions, which are both retirement of RINs, when a potentially invalid RIN is reported by the RIN generator, and the regulations do not consider that certain remedial actions require reporting to EPA and *waiting for EPA to inform the party as to the proper action to take.* See, e.g., NBB Comments at 11-12. Responses from the support line do not always occur on a timely basis, but can include remedial actions that do not require RIN retirement.

The preamble also purports to make a distinction between a “‘potential’ problem” from a “‘confirmed” one. 79 Fed. Reg. at 42,086. It states that “[w]hen an auditor or the EPA determines that a PIR is invalid, the RIN generator will be notified directly,” which will trigger the process of retiring a valid RIN. *Id.* Again, this ignores the provisions for when the RIN generator identifies potentially invalid RINs, which requires corrective action within 30 days for “‘potentially” invalid RINs. Moreover, in cases where the auditor reports the potentially invalid RIN, the regulations presume invalidity, and the process places all the burden on the producer to show the RIN is not invalid. While providing for self-reports for generators, these provisions do not provide the same flexibility that currently exists. Thus, the regulations, as written, may still raise questions as far as retirement obligations and timing for corrective actions and reporting of invalidity to customers. EPA’s response to comments does not address these concerns.

In addition, EPA did not respond to NBB’s comments urging EPA to revise 40 C.F.R. § 80.1426(a)(1) so that paperwork violations do not render a RIN invalid. The statute only requires that the fuel be derived from renewable biomass and meet the lifecycle greenhouse gas reduction requirements. Missed deadlines, data entry errors, and other actions that technically may not be in compliance with the regulations do not make the gallon of fuel suddenly no longer eligible under the program. But, EPA continues to require compliance with all the applicable requirements of the RFS2 regulations to generate a RIN under 40 C.F.R. § 80.1426(a)(1). EPA does not directly address these comments, but merely restates its rationale from the proposal:

[I]n order to ensure that renewable fuel producers will maintain their records in a manner that will allow third-party auditors and the EPA to efficiently evaluate whether RINs were properly generated, we are amending § 80.1426 to state that RINs may only be generated for fuel that the producer has demonstrated, pursuant to all applicable recordkeeping requirements of § 80.1454, was produced in accordance with the applicable pathway listed in Table 1 to § 80.1426(f) or a petition approved by the EPA pursuant to § 80.1416. Furthermore, RIN generation is only appropriate for renewable fuels that carry the appropriate designation on their product transfer documents, according to the new provisions of § 80.1453(a)(12).²¹

²¹ It should also be noted that the regulatory requirements are not all related to the generation of the RIN itself, and may occur days to months after the RIN is actually generated. For example, facilities may generate RINs upon production, but do not designate the fuel on product transfer documents until shipment. EPA has long allowed producers flexibility to define batches, and these provisions raise questions as to when RINs can be generated.

But, the QAP is voluntary, and EPA does not explain why such requirements are needed for a voluntary program. Moreover, EPA does not explain why the potential penalties for failing to comply with the regulations or the desire of the facility to obtain verified RINs are not sufficient incentives for the parties to comply with the regulations. Finally, EPA does not explain why clause (iii), which requires compliance with the registration requirements, the recordkeeping requirements and “all other applicable requirements of this subpart M,” is still necessary. Indeed, EPA continues to provide new interpretations of its regulations through the support line (rather than guidance or the regulatory process), making such a broad provision lacking in notice to the producer as to what specific obligations are required to generate a RIN. Given the strict requirements of RIN replacement, inadvertent non-compliance with these requirements should not render a RIN invalid. Thus, further explanation and clarification of these provisions is warranted.

III. CONCLUSION

For the foregoing reasons, EPA should reconsider or clarify the QAP Rule with respect to the provisions related to the retirement of RINs due to export or non-qualifying downstream uses, the application of the QAP to foreign produced biofuels, the independence of the third-party auditor conducting QAPs, and the administrative process for dealing with potentially invalid RINs. The public did not have adequate opportunity to comment on these significant changes, and EPA failed to adequately respond to comments making the final determinations are arbitrary and capricious and otherwise not in accordance with the Clean Air Act. Even if EPA determines that the public had an opportunity to comment on these objections, NBB requests that EPA treat this petition as a petition for rulemaking and initiate new proceedings to make amendments to these provisions.

* * *

We appreciate the agency’s consideration of these important issues, and look forward to working with you to resolve them.

Please do not hesitate to contact the undersigned if you have any questions regarding this petition.

Respectfully submitted,



Anne Steckel
Vice-President, Federal Affairs
National Biodiesel Board

cc: Byron Bunker, EPA (Bunker.Byron@epa.gov)
Mary Manners, EPA (Manners.Mary@epa.gov)
Brenton Williams, EPA (Williams.Brenton@epa.gov)

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Larry Schafer
Sent: Mon 4/6/2015 8:35:08 PM
Subject: RE: Are you working this week?

Ok ... thanks ... enjoy the break ...

Let's chat when you return ...

EPA (b) (6)

Enjoy!

Larry Schafer

National Biodiesel Board

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M: 202.997.8072

LSchafer@Biodiesel.org

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From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Monday, April 06, 2015 4:32 PM
To: Larry Schafer
Subject: Re: Are you working this week?

Nope

Paul Argyropoulos

Senior Policy Advisor

USEPA

Office of Transportation and Air Quality

Office: 202-564-1123

Mobile: 202-577-9354

On Apr 6, 2015, at 4:14 PM, Larry Schafer <lschafer@biodiesel.org> wrote:

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Larry Schafer
Sent: Mon 4/6/2015 8:14:22 PM
Subject: Are you working this week?

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Larry Schafer
Sent: Wed 4/1/2015 3:17:19 PM
Subject: Hope you are well

Paul,

EPA (b) (6)



Can we chat today ... or maybe grab a cup?

Thanks

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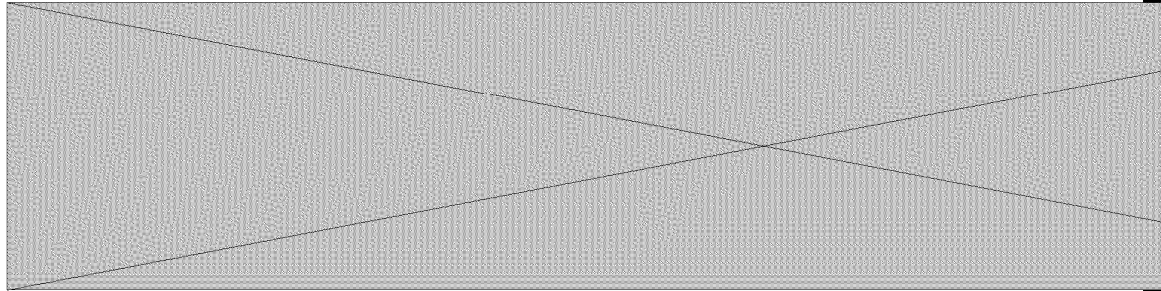
1331 Pennsylvania Ave. NW
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Washington DC 20004

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Geoff Cooper
Sent: Wed 4/1/2015 12:44:12 PM
Subject: Automatic reply: Response: Meeting Request - Cellulosic Waiver Credit/D3 RIN

I am out of the office March 31-April 2 with limited access to email. I will reply to messages as time permits, or upon my return to the office. Thanks for your patience.

Thanks.

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: BIO Industrial & Environmental Section News
Sent: Tue 3/31/2015 4:22:37 PM
Subject: Industrial Biotech News Clips from March 2015



[View message online](#)

Biofuels

DomesticFuel (March 27, 2015) [Ethanol Supporters Counter Funding Request](#)

Ethanol and agriculture industry groups sent their own letter to House Appropriations leadership in response to [a group of lawmakers](#) calling for the elimination of funding for blender pumps or corn ethanol export promotion. The letter signed by the [Renewable Fuels Association](#), [American Coalition for Ethanol](#), National Farmers Union, [National Corn Growers Association](#), and [Growth Energy](#) calls on the subcommittee to "vehemently oppose and reject any efforts to include such limiting language" in FY 2016 appropriations for USDA.

Reuters (March 24, 2015) [EPA Call for Comments Raises Questions Over Biofuel Standards Delay](#)

A U.S. Environmental Protection Agency (EPA) request on Tuesday for comments from cellulosic biofuels makers raised speculation among industry analysts of further delays in the release of government-mandated renewable fuels volumes. The agency, which oversees the Renewable Fuel Standard (RFS) program, has asked for public comments before submitting a request to Office of Management and Budget regarding volume projections on cellulosic fuel production, according to a notice published on Tuesday in the Federal Register.

The New York Times (March 10, 2015) [End the Ethanol Rip-Off](#)

WITH the collapse in global oil prices, members of Congress are once again pushing to raise the federal gasoline tax, with the proceeds going to new roads, bridges and other infrastructure projects. While some in Congress might be averse to a tax increase of any kind, they might find it more palatable if it came packaged with a tax cut. Fortunately, there is a perfect option, a hidden levy that has benefited a small group of farmers and manufacturers in a handful of states: the corn ethanol tax.

The Wall Street Journal (March 9, 2015) [The GOP's Renewable Evangelists](#)

Witness this weekend's pander fest known as the Ag Summit, in which the potential 2016 candidates competed to proclaim their devotion to the Renewable Fuel Standard and the 2.3-cent per kilowatt hour wind-production tax credit... "Don't mess with the RFS," declared Iowa's GOP Governor Terry Branstad at the start of festivities, referring to the mandate that requires a minimum amount of renewables be blended into transportation fuels. Two of the biggest enthusiasts were Rick Santorum and Mike Huckabee, the social conservatives who

won the last two Iowa presidential caucuses before spattering in New Hampshire. (Also in [The Washington Times](#))

The Des Moines Register (March 7, 2015) [Obama Backs Biofuels Talk with Dollars](#)

In his rush to make the case for domestic biofuels, the writer of "[The good news on ethanol: U.S. a 'biofuels superpower'](#)" [March 1] fails to note the administration's strong support for biofuels and aggressive pursuit of investments in renewable energy. To quote President Barack Obama in his 2015 State of the Union address, "converting sunlight into liquid fuel" is a key part of the administration's strategy to create jobs and reduce our dependence on foreign oil.

The Hill (March 04, 2015) [The RFS and the EPA -- Making a Mess of Success](#)

Opinion piece by former Sen. Byron Dorgan (D-N.D.)... But the provision of which I am most proud is the creation of the Renewable Fuel Standard (RFS), which called for phasing clean alternative, renewable fuels into the nation's energy mix. The RFS has been an unbelievably successful transportation energy policy. Ten years after its enactment, the U.S. now gets more than 10 percent of its fuel supply from renewable fuels. That's more than 15 billion of gallons of fuel made from clean, renewable resources that displaces imported gasoline and diesel and strengthens our energy security and our national security by reducing foreign oil imports.

Bloomberg (March 01, 2015) [Crude Oil's Collapse Seen Causing Indonesia to Miss Biofuel Goal](#)

Indonesia's goal of boosting use of biodiesel made from palm oil by more than doubling subsidies is being threatened by the slump in crude prices. The collapse of crude oil amid a global surplus has led a decline in fossil-fuel costs that's cut the appeal of producing energy from plants. Indonesia's new government led by Joko Widodo approved an increase in the biodiesel subsidy last month, spurring analysts including Mandiri to forecast the change would help to raise domestic palm oil use at a time of expanding output and weaker demand from buyers such as China.

Biobased Products, Renewable Specialty Chemicals, and Synthetic Biology

The Washington Post (March 26, 2015) [Why Organism Engineering Could Be a Foodie's Dream Come True](#)

Thanks to recent advances in synthetic biology — a hybrid discipline of engineering and biology that makes possible the manipulation of DNA of microorganisms such as yeast, bacteria, fungi and algae — a new generation of "organism engineers" has already started experimenting with the creation of new flavors and ingredients. In doing so, they have the potential to transform synthetic biology into a new creative platform to enable chefs, bakers or brewers to create new flavor profiles for food and drink.

Chemical & Engineering News (March 16, 2015) [Accelerating Chemical Production With Biology](#)

A new report by the National Research Council says the U.S. can accelerate its ability to manufacture chemicals using biological methods by broadening the use of synthetic biology:

developing better models and tests of biological processes, and ensuring that regulations, risk assessments, and workforce education is in place for a shift to biobased manufacturing. The report, "Industrialization of Biology: A Roadmap To Accelerate Advanced Manufacturing of Chemicals," was commissioned by the Department of Energy and the National Science Foundation. It was written by a panel of experts chaired by Thomas M. Connelly Jr., formerly of DuPont. Connelly is now the executive director and chief executive officer of the American Chemical Society, the publisher of Chemical & Engineering News.

Popular Science (March 14, 2015) SXSW 2015: I Reprogrammed a Lifeform in Someone's Kitchen While Drinking a Beer

A group holding red cups full of beer converged around a kitchen table littered with petri dishes, pipettes, and other basic laboratory equipment. Our host/lab director, Justin Pahara, explained how we were all going to take a custom snippet of DNA and stick it into some unsuspecting *Escherichia coli* bacteria. In essence, we were about to reprogram a living cell in an Austin, Texas kitchen...This was the scene at a biohacking party at South By Southwest 2015, hosted by Synbiota--one of many outfits behind the DIY or garage biology movement. Similar to the open-source style of computer hacking, DIY biology centers espouse the belief that consumers and individuals should be able to experiment with biological processes and genetic information outside of the laboratory.

Science 2.0 (March 10, 2015) Microbes Cleaning Fukushima Soil

Salt-loving, halophilic, microbes could donate proteins to clean up radioactive strontium and caesium ions from the Fukushima Dai-ichi Nuclear Power Plant incident in Japan...There are twelve types of such enzymes recorded in the Protein Data Bank that can bind to sodium, magnesium, potassium, calcium, iron, zinc, strontium and cadmium ions. Indeed, the presence of these materials in various enzymes is usually a prerequisite for their structure and functionality.

Biofuels Digest (March 08, 2015) Timely Implementation of Farm Bill Programs Is Vital for the Advanced Biofuels and Renewable Chemicals Industry

Agriculture Secretary Tom Vilsack recently announced funding for the Biomass Research and Development Initiative (BRDI) as well as published the final rule for the Biomass Crop Assistance Program (BCAP). BIO and the industrial biotech sector worked hard to ensure that these and other programs were reauthorized in the 2014 Farm Bill and received mandatory funding. For companies that rely on these programs to help them with early stage bioenergy research, market adoption of new technology, or to introduce new purpose-grown energy crops, timely implementation is vital. When our companies succeed in commercializing our technologies, we create new economic opportunities for rural communities, new jobs, and new markets for agriculture. And our success makes a powerful argument for Congress to continue funding the programs.

News Scientist (March 04, 2015) Would You Wear Yeast perfume? Microbes Used to Brew Scent

Genetically engineered microorganisms could replace flowers as sources of ingredients for perfumes - and even recreate scents from plants long extinct...The concoction is a microbial perfume. Cooked up in the laboratories of Ginkgo BioWorks in Boston, it contains yeast that has been genetically engineered to smell of roses. Its ultimate purpose: to become part of a designer fragrance, one where its presence rivals the rose oils often used in luxury scents.

Bloomberg BNA (February 25, 2015) Reintroduction of Bills Offering Tax Credits For

Biobased Chemical Production Sought

Legislation offering tax credits for U.S. producers of chemicals made from algae, crop residues and other plant material should be reintroduced this Congress, according to the Biotechnology Industry Organization. "If U.S. companies can capture a percentage of the \$2.4 trillion worldwide clean energy market, they will create 237,000 direct U.S. jobs," Rina Singh, senior director of BIO's Industrial and Environmental Section, told Bloomberg BNA in a Feb. 25 e-mail. "The Qualifying Renewable Chemical Production Tax Credit and other tax policies are needed to level the playing field for innovative technologies that can drive employment and economic growth," she said. The Qualifying Renewable Chemical Production Tax Credit Act was introduced in the 112th and 113th Congresses but failed to move. Singh urged the reintroduction and consideration of the legislation during a Feb. 25 briefing on Capitol Hill presented by Sen. Chuck Grassley (R-Iowa), according to a copy of her presentation the Biotechnology Industry Organization provided to Bloomberg BNA.

Industrial and Environmental Section Member News

Domestic Fuel (March 10, 2015) BioEnergy Bytes

Deinove, a biotech company developing innovative processes for producing biofuels and bio-based chemicals, has announced that its patent, "High-performance metabolic bacteria¹", has been granted in the U.S. This patent covers the biofuel production process from cellulosic or hemicellulosic material – biomass components – by a consolidated bioprocess of degradation and fermentation based on *Deinococcus* bacteria.

Environmental Leader (March 9, 2015) BASF Offers Bio-Based PolyTHF

BASF has made bio-based Polytetrahydrofuran 1000 available for the first time and is providing it to selected partners for testing various applications in a large scale. The company says the bio-based PolyTHF 1000 is identical in quality to the petrochemical-based product. PolyTHF is derived from 1,4 butanediol (BDO), which BASF has produced under license from Genomatica.

Genetic Literacy Project (March 6, 2015) Searching for Biotech Alternatives to Unsustainability of Palm Oil

...Meanwhile, chemical and biotech firms are looking to develop industrial biotechnology processes for next-generation oils that might someday replace palm...Solazyme, a California-based biotech company, is already producing commercial quantities of algal oils that are engineered to be chemically similar to palm products, such as the C10 and C12 fatty acids found in palm kernel oil. The start-up is supplying a replacement for palm oil derivatives in products such as a laundry detergent from the Belgian firm Ecover.

Market Watch (March 3, 2015) Energy Group, Total Makes Investment & Initiates Joint Development Agreement with Renmatix

Renmatix, the leader in affordable cellulosic sugars, announced an investment by the New Energies Division of Total, and the signature of a joint development agreement (JDA) between Total and Renmatix. Under the agreement, Renmatix and Total will utilize Renmatix's proprietary Plantrose process with specific feedstocks to extract sugar for use in production of biobased products of interest to Total. In concert with the investment and R&D projects, Total also joins the Renmatix Board of Directors.

Virtual Strategy Magazine (March 02, 2015) Joule Receives Prestigious Frost & Sullivan Technology Innovation Award

Joule, the pioneer of direct, solar recycling of CO₂-to-liquid fuels, announced today that its platform was awarded the 2015 Technology Innovation Award by Frost & Sullivan. The award, which recognizes organizations addressing unique and critical challenges, was presented to Joule for its ability to recycle waste carbon dioxide (CO₂) into drop-in liquid fuels using sunlight.

Engineering.com (March 01, 2015) Designer Yeast Makes Renewable Jet Fuel

Legend says that pouring sugar into a fuel tank will cause engine problems. Apparently the engineers at Amyris didn't get that memo, because they're making jet fuel out of sugar cane. This renewable fuel has the same energy density as standard "Jet A" fuel, while offering three distinct advantages over petroleum-based jet fuel: a lower freezing point, fewer greenhouse gas emissions, and a renewable source.

Nasdaq (February 28, 2015) Build or Conquer? 3 Companies Battling Over the Future of Biofuels

If any or all of the above resonates with you, then I have some good news. Abengoa SA, DuPont, and BP are racing to bring next-generation renewable fuels to market while defending the advantages due to them as first movers. While the companies are competing to develop the best, most efficient platforms for producing next-generation fuels, the fiercest competition -- from a rather unlikely source -- may have yet to fully develop.

Industry Events Calendar

International Conference on Bio-based Materials- April 8-10, 2015- Cologne

This conference aims to provide major players from the European and Asian bio-based chemicals, plastics and composite industries with and opportunity to present and discuss their latest developments and strategies.

biowerkstoff-kongress.de

German Biotechnology Days- April 22-23, 2015- Cologne

The Sixth German Biotechnology Days, which will be organized in 2015 by BIO Deutschland, the Council of German BioRegions and the host BIO.NRW, will take place on 22 and 23 April. The program focus will be on the bioeconomy, medical biotechnology, conditions in the sector and presentations on the projects funded by the Federal Ministry of Education and Research.

biotechnologieitegae.de

Achema's BiobasedWorld- June 15-19, 2015- Frankfurt

ACHEMA 2015 is a forum for chemical engineering and the process industry and BiobasedWorld at ACHEMA 2015 is the place where bioeconomy becomes visible and tangible.

achema.de

BIO World Congress on Industrial Biotechnology- July 19-22, 2015- Montreal

The BIO World Congress on Industrial Biotechnology is the world's largest industrial biotechnology event for business leaders, investors, and policy makers in biofuels, biobased products, and renewable chemicals. #BIOWC15

bio.org/worldcongress

BioFuelNet Advanced Biofuels Symposium (ABS)- July 22-24, 2015- Montreal

BioFuelNet will host the Advanced Biofuels Symposium (ABS) in downtown Montreal at the Hotel Omni. The ABS brings together multi-disciplinary experts in the energy field, including stakeholders in academia, industry and government, to celebrate sustainable innovation and to discuss the future of the advanced biofuels industry. biofuelnet.ca

European Forum for Industrial Biotechnology-October 27-29, 2015- Brussels

EFIB is the premier marketplace for the European biobased economy and will increase engagement between industry, policy makers and stakeholders. This unmissable event is a must for all those wanting to take part in defining, developing and shaping this burgeoning smart and sustainable sector. efibforum.com

Algae Biomass Summit- September 30- October 2, 2015- Washington, DC

Produced by the Algae Biomass Organization, this event brings current and future producers of biobased products and energy together with algae crop growers, municipal leaders, technology providers, equipment manufacturers, project developers, investors and policy makers. It's a true one-stop shop – the world's premier educational and networking junction for all algae industries. algaebiomasssummit.org

ABLCNext- November 3-4, 2015 -San Francisco, California

ABLCNext focuses on rapidly emerging technologies and feedstocks, including novel molecules, new crops, hybrids and residues. advancedbiofuelssummit.com

Pacifichem- December 15-20, 2015- Honolulu, HI

The 2015 International Chemical Congress of Pacific Basin Societies (Pacifichem), will take place in Honolulu, Hawaii, USA, December 15-20, 2015. Pacifichem 2015 will be the seventh in the series of successful cosponsored scientific conferences of Pacific Basin Chemical Societies and the theme is "Chemical Networking: Building Bridges Across the Pacific". pacifichem.org

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Michael.McAdams@hklaw.com
Sent: Wed 3/25/2015 2:50:54 PM
Subject: RE: NOTICE: EPA Issues Minor Amendments to the Cellulosic Waiver Credit Provisions, Guidance on Compliance with Cellulosic Biofuel Standard

Thank you most HELPFUL!!

Michael J. McAdams | **Holland & Knight**
Senior Policy Advisor
800 17th Street, NW Suite 1100 | Washington DC 20006
Phone 202.469.5140 | Fax 202.955.5564
michael.mcadams@hklaw.com | www.hklaw.com

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Wednesday, March 25, 2015 10:45 AM
Subject: NOTICE: EPA Issues Minor Amendments to the Cellulosic Waiver Credit Provisions, Guidance on Compliance with Cellulosic Biofuel Standard

Dear Interested Parties:

Today, in a Direct Final Rulemaking (DFRM) EPA is issuing a notice that includes minor amendments to the Cellulosic Waiver Credit Provisions and a few other Renewable Fuel Standard Regulation. The Agency is also posting a Guidance Document summarizing basic compliance allowances with the cellulosic biofuel standard. A summary of the minor amendments is noted below and a link to the guidance document is also included below.

Summary of Amendments

1. **Modification of the Method for Announcing CWC Prices:** In previous years EPA has established the CWC price by rulemaking and published these prices in the Code of Federal Regulations. This process has resulted in a delay of the announcement of the CWC price for 2014 and 2015. To allow more expeditious publication of the CWC prices EPA will announce the CWC price on our “Renewable Fuels: Regulations & Standards” website (<http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm>). EPA will issue an EnviroFlash notice when the CWC prices are posted. To subscribe to receive EnviroFlash notices visit our website at: <https://enviroflash.epa.gov/enviroflashOTAQPublic/Subscriber.do?method=start>. We will also remove the CWC prices from our regulations.

2. **Clarification of the Data Sources Used in the CWC Price Calculation:** The price of CWCs are determined using a formula specified in the Clean Air Act (CAA). The cellulosic waiver credit price is the greater of \$0.25 or \$3.00 minus the wholesale price of gasoline, where both the \$0.25 and \$3.00 are adjusted for inflation. In this action we are clarifying that we will adjust for inflation by comparing the Consumer Price Index from June of the year preceding the compliance period to the Consumer Price Index from January 2009. In this calculation we will use the “Consumer Price Index for All Urban Consumers (CPI-U): U.S. City Average, Unadjusted Index for All Items” expenditure category as provided by the Bureau of Labor and Statistics.
3. **Calculation of CWC Prices:** EPA has calculated the CWC prices for 2014 and 2015 using the data sources and methodology specified in this rule, as described above. The CWC price for 2014 will be \$0.49 and the CWC price for 2015 will be \$0.64. We will publish these prices, along with the 2013 CWC price (\$0.42), on our website following the effective date of this rule
4. **Reinsertion of Inadvertently Overwritten Text:** A previous EPA rulemaking action inadvertently overwrote a section of the regulations regarding renewable fuel produced from giant reed (*Arundo donax*) and napier grass (*Pennisetum purpureum*). In this rule we are reinserting this text. In conjunction with the addition of this text, we are also re-numbering several existing sections of our regulations to align them with regulatory references elsewhere.

Cellulosic Biofuel Standard Guidance

This Guidance summarizes the two basic ways obligated parties can comply with their cellulosic biofuel obligations, through securing cellulosic biofuel (D3) or cellulosic diesel (D7) RINs or purchase cellulosic biofuel waiver credits. This guidance document also explains the specific conditions that apply under each option for compliance. Further, it explains the limitations or allowances for compliance under each option. To access the documents, please visit EPA's Office of Transportation and Air Quality (OTAQ) website at:
www.epa.gov/otaq/fuels/renewablefuels/regulations.htm

The above actions intend to provide an opportunity for more timely release of information and greater understanding of how compliance may be achieved with certain provisions of the RFS program.

Best Regards, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Brian Jennings
Sent: Wed 3/25/2015 2:45:15 PM
Subject: Automatic reply: NOTICE: EPA Issues Minor Amendments to the Cellulosic Waiver Credit Provisions, Guidance on Compliance with Cellulosic Biofuel Standard

I'm out of the office and unable to respond immediately to your email. You can try my cell phone at EPA (b) (6)

Thank you.

Brian

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Michael.McAdams@hklaw.com
Sent: Mon 3/23/2015 4:48:50 PM
Subject: RE: BIOFUELS UPDATE: ***EPA Seeking Comments on Cellulosic Biofuel, E15 Collection Requests

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Michael.McAdams@hklaw.com
Sent: Mon 3/23/2015 3:56:45 PM
Subject: FW: BIOFUELS UPDATE: ***EPA Seeking Comments on Cellulosic Biofuel, E15 Collection Requests

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: BIO - Biotechnology Industry Organization
Sent: Thur 3/19/2015 2:01:31 PM
Subject: BIO Newsletter: March 19, 2015

Add bio_newsletter@bio.org to your contacts to ensure email delivery. Not displaying correctly? [View this email in a browser](#). If you received this message from a friend, please subscribe to BIO Newsletter.

03.19.2015

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BIO 2015 to Welcome Veteran Journalist and Author Tom Brokaw

With all that he has accomplished, we are thrilled to welcome Tom Brokaw as a Keynote speaker at the 2015 BIO International Convention®, June 15-18 in Philadelphia, Pennsylvania. Brokaw will speak Tuesday, June 16th and the session will be open to Convention Access or higher attendees as well as credentialed members of the trade and local media...

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On Thursday, March 5, at 6 a.m., around 1,000 female members of Brazil's Landless Workers' Movement armed with sticks and knives broke into a cellulose company in San Paulo State and destroyed millions of samples of genetically modified eucalyptus saplings...

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"The Economic Contribution of University/Nonprofit Inventions in the United States: 1996- 2013," estimates that, during this 18-year time period, academia-industry patent licensing bolstered U.S. gross industry output by up to \$1.18 trillion...

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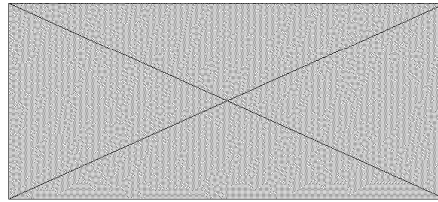
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NephroGenex

Raleigh, North Carolina, United States
February 17, 2015

Senior Director,
Medical Affairs,
Sucampo Pharma

Bethesda, Maryland, United States
March 13, 2015

Technology Transfer
Director, Idaho State
University

Pocatello, Idaho, United States
March 16, 2015

Operations Support
Manager, BASF
Corporation

Palmyra, Missouri, United States
March 16, 2015

CREW LEADER , M.C. Dean,
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Charleston, South Carolina, United States
March 15, 2015

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To: Stewart, Gwen[Stewart.Gwen@epa.gov]
Cc: Larry Schafer E-mail Forward[LSchafer@dcdiamondgroup.com]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
From: Anne Steckel
Sent: Thur 3/12/2015 12:42:48 PM
Subject: Re: Meeting Request and Invitation

Gwen,
Thanks for the email.
April 14th at 3 works for a meeting. It will just be me attending.
Thank you,
Anne

On Mar 11, 2015, at 1:32 PM, "Stewart, Gwen" <Stewart.Gwen@epa.gov> wrote:

Dear Ms. Steckel,

Mr. Grundler is currently away from the office, however he has requested I respond to you regarding your two requests. First, he wishes to thank you for the invitation to participate in your upcoming board meeting. Unfortunately, he is not available due to other pressing business. Additionally, with regard to your other request to come in and meet with him here in our office, he is happy to set up some time for a brief discussion with you. He proposes Tuesday, April 14th at 3:00 PM – 3:45 PM. Please confirm with us your availability to meet at that date and time and we can finalize the necessary arrangements. If that time is not convenient, please let me know and I will get back with you with some other potential dates. Also, just to confirm, will it just be you meeting with Mr. Grundler or are others from your organization going to attend.

Thank you

Gwen Stewart

Office of Transportation and Air Quality

202 564-1682 – Telephone

202 564-1686 – Fax Number

stewart.gwen@epa.gov

To: Anne Steckel[asteckel@biodiesel.org]
Cc: Ischafer@dcdiamondgroup.com[Ischafer@dcdiamondgroup.com]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
From: Stewart, Gwen
Sent: Wed 3/11/2015 5:32:24 PM
Subject: Meeting Request and Invitation

Dear Ms. Steckel,

Mr. Grundler is currently away from the office, however he has requested I respond to you regarding your two requests. First, he wishes to thank you for the invitation to participate in your upcoming board meeting. Unfortunately, he is not available due to other pressing business. Additionally, with regard to your other request to come in and meet with him here in our office, he is happy to set up some time for a brief discussion with you. He proposes Tuesday, April 14th at 3:00 PM – 3:45 PM. Please confirm with us your availability to meet at that date and time and we can finalize the necessary arrangements. If that time is not convenient, please let me know and I will get back with you with some other potential dates. Also, just to confirm, will it just be you meeting with Mr. Grundler or are others from your organization going to attend.

Thank you

Gwen Stewart

Office of Transportation and Air Quality

202 564-1682 – Telephone

202 564-1686 – Fax Number

stewart.gwen@epa.gov

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Michael.McAdams@hklaw.com
Sent: Wed 3/11/2015 1:48:49 AM
Subject: Re:

Thanks.

Sent from my iPhone

> On Mar 10, 2015, at 8:21 PM, Argyropoulos, Paul <Argyropoulos.Paul@epa.gov> wrote:

>

> No problem. I won't share it Chris and Ben until tomorrow.

>

> Paul Argyropoulos

> Senior Policy Advisor

> USEPA

> Office of Transportation and Air Quality

> Office: 202-564-1123

> Mobile: 202-577-9354

>

>> On Mar 10, 2015, at 8:13 PM, "Michael.McAdams@hklaw.com" <Michael.McAdams@hklaw.com> wrote:

>>

>> Thanks Paul. Very helpful. I want to be factually accurate. Please hold the speech close until the morning.

>>

>> Sent from my iPhone

>>

>> On Mar 10, 2015, at 7:30 PM, Argyropoulos, Paul

<Argyropoulos.Paul@epa.gov<mailto:Argyropoulos.Paul@epa.gov>> wrote:

>>

>> Thanks again for sharing. Just one point for your consideration. Your point on refiners opting to buy waiver credits instead of 2014 cellulosic RINs is technically not true. We haven't set the waiver credit price for cellulosic credits for 2014 yet. Therefore they aren't available for purchase. A complicating factor is that 2013 compliance isn't even due yet. 2014 compliance is there for also delayed. So technically they can't effectively choose to buy one over the other yet. And they don't even know what their obligation is yet either. Just thought you might want to know that in case you want to modify your point.

>>

>> Paul Argyropoulos

>> Senior Policy Advisor

>> USEPA

>> Office of Transportation and Air Quality

>> Office: 202-564-1123

>> Mobile: 202-577-9354

>>

>> On Mar 10, 2015, at 6:48 PM,

"Michael.McAdams@hklaw.com<mailto:Michael.McAdams@hklaw.com>"

<Michael.McAdams@hklaw.com<mailto:Michael.McAdams@hklaw.com>> wrote:

>>

>> Paul: Here is my speech. Wall Street Journal is covering and it will be online tomorrow and potentially in print on Thursday. Doing my best my friend I take no shots at EPA, just talk about what we need and why we need the changes. Stuff you and I have talked about before. Best to the team.

>>

>> Michael J. McAdams | Holland & Knight

>> President, ABFA

>> Senior Policy Advisor

>> 800 17th Street, NW Suite 1100 | Washington DC 20006
>> Phone 202.469.5140 | Fax 202.955.5564
>> michael.mcadams@hklaw.com<<http://www.hklaw.com/>> | www.hklaw.com<<http://www.hklaw.com/>>
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>> Paul Argyropoulos
>> Senior Policy Advisor
>> USEPA
>> Office of Transportation and Air Quality
>> Office: 202-564-1123
>> Mobile: 202-577-9354

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: 25x'25
Sent: Thur 3/5/2015 5:20:10 PM
Subject: Ag Leaders Call on Iowa Summit Attendees to Support Renewables March 4, 2015

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FOR IMMEDIATE RELEASE
March 04, 2015

CONTACT:

Cortney Piper, Cater Communications
Cell: 865-789-2669, cortney@catercommunications.com
Ernie Shea, 25x'25
Cell: 410-952-0123 or eshea@25x25.org

**AG SUPPLY CHAIN LEADERS CALL ON IOWA AG SUMMIT SPEAKERS,
PRESIDENTIAL HOPEFULS TO SUPPORT CLEAN ENERGY FUTURE**

Des Moines, IA - Prominent leaders from agriculture's diverse value chain issued an

open letter to policymakers and presidential hopefuls attending the first ever Iowa Ag Summit, urging them to consider Iowa's renewable energy record in wind, solar and biofuels as an example for clean energy policies for the nation.

STAY CONNECTED

"Iowa farmers have demonstrated they can fuel and feed the planet at the same time," said Ron Heck, an Iowa soybean and corn producer, a former president of the American Soybean Association and a founder of the 25x'25 Alliance. "We're number one in

Notable signers to the letter, which urges "every single Iowa Ag Summit speaker to acknowledge the critical role wind, solar and biofuels play in building a strong, vibrant farming future for our nation," include the 25x'25 Alliance, the American Farm Bureau Federation, the National Farmers Union, the American Council on Renewable Energy, the National Corn Growers Association, the American Soybean Association, the National and Iowa Biodiesel Boards, the American Solar Energy Society, CropLife America, and Windustry.

Iowa ranks near the top in the United States in production of renewable energy.

Biofuels industries have added \$13.1 billion to Iowa's economy, generated \$4.1 billion in new household income, and created and supported 62,000 jobs statewide. Overall, Iowa accounts for 30 percent of total U.S. biofuels production.

The state obtains 27 percent of its total electricity generation from wind, the largest share among states in the nation and enough to power nearly 1.5 million homes. Iowa is host to 14 active wind-related manufacturing facilities in the state, which create and sustain jobs and strengthen the economy.

According to the Farmers Electric Cooperative, its solar farm in Johnson County will generate roughly enough electricity to power 120 homes out of the 650-home service area and reduce electricity costs for ratepayers.

"As the U.S. and other world economies move to a low carbon future, policymakers need look no further than Iowa for what a vibrant clean energy future can and should look like," said Ernie Shea, Project Coordinator for the 25x'25 Alliance, a coalition united behind the goal of securing 25 percent of the nation's energy needs from renewable sources by the year 2025. "Iowa's farmers have found a way to take advantage of abundant, economical, clean sources of energy. It is my hope that as the Summit convenes, national leaders will look toward Iowa as an example of what is possible for our clean energy future."

The Summit convenes on Saturday. Several presidential hopefuls have confirmed attendance, such as former governors Jeb Bush, Mike Huckabee and Rick Perry, former Pennsylvania Senator Rick Santorum, New Jersey Governor Chris Christie, New York businessman Donald Trump and Wisconsin Governor Scott Walker.

To view a copy of the letter, click [HERE](#).

###

25x'25 is a diverse national alliance of agricultural, forestry, environmental, conservation and other organizations and businesses that are working collaboratively to advance the goal of securing 25 percent of the nation's energy needs from renewable sources by the year 2025. For more information visit: <http://www.25x25.org/index.php>

This email was sent to argyropoulos.paul@epa.gov by info@25x25.org | [Update Profile/Email Address](#) | Rapid removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

25x'25 Alliance | 1430 Front Ave | Lutherville | MD | 21093

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Stewart, Gwen[Stewart.Gwen@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Anne Steckel[asteckel@biodiesel.org]
From: Ischafer@dcdiamondgroup.com
Sent: Mon 3/2/2015 8:22:56 PM
Subject: Re: Meeting Request

Thank you.

=====

Larry Schafer

t: 202.997.8072

=====

On Mar 2, 2015 1:58 PM, "Argyropoulos, Paul" <Argyropoulos.Paul@epa.gov> wrote:

Hi Larry,

Due to uncertainties with a number of things on our end, we are still looking to confirm when Chris is in town. Also, you have the additional request for Chris' participation in your board meeting we have to resolve as well. We may just need to schedule something in anticipation of Chris' availability and hope that it works. I will still need to get with Gwen to identify the best potential date and then make sure others are available to meet as well.

I or Gwen will get back with you in the next day or two.
Thanks, Paul

From: Ischafer@dcdiamondgroup.com <Ischafer@dcdiamondgroup.com> on behalf of Larry Schafer <Lschafer@biodiesel.org>
Sent: Monday, March 2, 2015 1:53 PM
To: Argyropoulos, Paul
Cc: Stewart, Gwen; Hengst, Benjamin; Anne Steckel
Subject: Re: Meeting Request

Paul, Gwen and Ben

Hope you are well and that you had a good weekend.

I am checking in to get on your short list for a meeting with Chris and Anne.

Please keep us posted.

Thank you.

=====

Larry Schafer

t: 202.997.8072

=====

On Feb 19, 2015 7:50 PM, "Argyropoulos, Paul" <Argyropoulos.Paul@epa.gov> wrote:

Larry and Anne,

I have been working with Gwen in an attempt to squeeze in a meeting next week but unfortunately it is simply not possible.

Chris has been on travel this week and is only in DC 2 days next week and is wall to wall with meetings. He will then be on travel until Mid-March. As it stands now that is the only time table we are working with. Gwen and I will look to offer some options and provide them to you next week.

Thanks, Paul

Paul Argyropoulos
Senior Policy Advisor
USEPA
Office of Transportation and Air Quality
Office: 202-564-1123
Mobile: 202-577-9354

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Stewart, Gwen[Stewart.Gwen@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov];
Anne Steckel[asteckel@biodiesel.org]
From: Ischafer@dcdiamondgroup.com
Sent: Mon 3/2/2015 6:53:44 PM
Subject: Re: Meeting Request

Paul, Gwen and Ben

Hope you are well and that you had a good weekend.

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Please keep us posted.

Thank you.

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Larry Schafer

t: 202.997.8072

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